United States Court of Appeals

for the Second Circuit



APPELLANT'S APPENDIX

ORIGINAL

75-6108

B

United States Court of Appeals

For the Second Circuit

P/S

EDWARD KAVAZANJIAN, FRANK BENEMIO, EDWARD BERTELE, FRANK COSTAS, JOSEPH D'AMICO, JOSEPH FARRELL, ALEX FLASTERSTEIN, MARTIN GREENFIELD, JOHN MARTIN, ARTHUR OPPOLION, PETE SCALCIONE, AND, AS A CLASS, ALL INVESTIGATORS OF THE U.S. IMMIGRATION AND NATURALIZATION SERVICE, IMMIGRATION AND NATURALIZATION SERVICE LOCAL NO. 1917 (American Federation of Government Employees AFL-CIO), AND NATIONAL COUNCIL OF IMMIGRATION AND NATURALIZATION LOCALS,

Plaintiffs-Appellants,

v.

U.S. IMMIGRATION AND NATURALIZATION SERVICE, THE U.S. CIVIL SERVICE COMMISSION, and THE UNITED STATES OF AMERICA, et al.,

Defendants-Appellees.

UNITED STATES COURT OF APPEALS
FILED
JAN 26 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

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FRIED, FRAGOMEN & DEL REY, P.C.
Attorneys for Plaintiffs-Appellants
515 Madison Avenue
New York, N.Y. 10022
(212) 688-8555

Dick Bailey Printers, Inc., Tel.: (212) 447-5358

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DOCKET ENTRIES

JUDGE POLLACK

EDWARD KAVAZANJIAN, et al vs. U.S. IMMIGRATION AND NATURALIZATION SERVICE, et al

Jul 15, 1969	Filed complaint issued summons.
Aug 25, 1969	Filed summons and return. Served IMN by Miss Troia and by mailing copies to Atty.Gen. Wash. D.C. the immigration dept. by certified mail receipts nos. 559486, 559487 & 559488 on 7-19-69.
Aug 27, 1969	Filed stip and order extending def's time to answer complaint to 10/16/69. So ordered. McLean, J.
Jan. 22, 197[illegible]	Filed Answer to complaint.
Jan. 23, 1970	Filed stip and order that time for deft to answer to the complaint is extended to 1/30/70 Bonsal J.
Nov. 18, 1970	Issued additional summons.
Nov. 19, 1970	Filed stip & order to add addl parties deft Robert E. Hampton, James E. Johnson and L. J. Andolsek, members of the U.S. Civil Service Commission, as defts. So ordered. Weinfeld, J.
Nov. 25, 1970	Filed pltffs' request deft U.S. I&NS Request for the Production of Documents Pursuant to Rule 34.
Dec. 8, 1970	Filed Additional Summons - Marshal's return - Served Mr. Robt. Hampton, member of U.S. Civil Service Com.
Jan. 11, 1971	Filed stip and order that the time for defts to object to or to produce documents be extended from 12-17-70 to ten days subsequent to a decision by the District Court. So Ordered: Canella, J.
Jan. 21, 1971	Filed pltff's Memo in support of class action.
Feb. 22, 1971	Filed stip that pltffs' motion for a determination pursuant to Rule 23(c)(1) is ext. from 2-23-71 to 3-9-71.
Mar. 8, 1971	Filed stip that pltff's motion for a determination pursuant to Rule 23(c)(1) is ext. from 3-9--71 to 3-23-71.
Mar. 23, 1971	Filed Memo Endorsed on notice of motion filed 1-21-71--Motion consented to. Settle order on notice. Cannella, J.

Aug. 19, 1971	Filed ORDER that action is to be maintained as a class action on behalf of a class compromised of pltffs and all other persons employed as investigators by US IMNS as indicated. Canella, J.
Nov. 17, 1972	Filed pltff's notice of motion re production ret. 11-30-72.
Jun 11, 1973	Filed Notice of Settlement & Order. Ordered that to the extent such documents exists and to the extent they have not already been furnished, that defts furnish to pltffs for inspection and copying the following papers as indicated, So Ordered Griesa J.
Aug. 2, 1973	Filed amendment to order entered 6-8-73 re documents required under that order are to be produced on or before 8-30-73. So ordered. Griesa, J.-mailed nctice.
Jan. 10, 1974	Pretrial hearing held.
July 19, 1974	Pre-trial conference held. Conner, J.
Aug. 12, 1974	Filed defts' affdvt. of Taggart D. Adams and notice of motion for an order granting summary judgment. Ret. 8-30-74.
Aug. 12, 1974	Filed defts' memo of law in support of their motion for summary judgment.
Aug. 26, 1974	Filed stip & order that the return date of defts' motion for an order pursuant to Rule 56 is adjourned from 8-30-74 to 9-30-74. So ordered. CONNER, J.
Sept. 24, 1974	Filed stip & order that the return date of defts' motion for an order pursuant to Rule 56 is adjourned from 9-30-74 to 10-30-74. So ordered-CONNER, J.
Marh. 19, 1975	Pre trial before Pollack, J.
Mar. 28, 1975	Filed affdvt. & notice of motion by pltffs for summary judgment in favor of pltffs. Ret. 4-11-75.
Mar. 28, 1975	Filed memo of law in opposition to defts motion for summary judgment etc.
June 18, 1975	Non-jury trial begun before Judge Pollack.
June 19, 1975	Trial cont'd.
June 23, 1975	Trial cont'd.

June 30, 1975 Trial cont'd and concluded. Decision reserved. Pollack, J.

Jul 14, 1975 Filed defts post-trial memo.

Aug. 18, 1975 Filed stip and order that subject to approval of Court, the following documents as indicated will be admitted into evidence. Pollack, J.

Aug. 18, 1975 Filed memo end. on motion of 3/28/75. Motion by pltffs for summary judgment has been mooted by trial. See Decision after trial filed 8/18/75. So Ordered. Pollack, J. (mn)

Aug. 18, 1975 Filed Defts' memo of law in support of motion for summary judgment.

Aug. 18, 1975 Filed memo end on motion of 8/12/74. Motion by defts for summary judgment has been mooted by trial. See decision after trial filed 8/18/75. So ordered. Pollack, J (mn)

Aug. 18, 1975 Filed OPINION #42973. Judgment is granted to defts and complaint is dismissed, with costs. Foregoing constitutes Court's findings of fact & conclusions of law as required by Rule 52(a) FRCP. So Ordered. Pollack, J. (mn)

Aug. 18, 1975 Filed defts proposed findings of fact & conclusions of law with documentation.

Aug. 18, 1975 Filed defts post-trial memo.

Aug. 18, 1975 Filed addendum to pltffs' trial memo.

Aug. 18, 1975 Filed pltffs documentation of contested factual issues.

Aug. 18, 1975 Filed defts' proposed counter findings of fact.

Aug. 18, 1975 Filed pltff's reply findings.

Aug. 18, 1975 Filed defts trial memo.

Aug. 18, 1975 Filed pltffs' trial memo.

Aug. 18, 1975 Filed pltffs' and defts' statement of uncontested and contested facts.

Aug. 18, 1975 Filed pltffs post trial statement.

Aug. 28, 1975 Filed transcript of record of proceedings dated June 18, 19, 23, 30, 1975.

Sept. 5, 1975 Filed JUDGMENT. Ordered that defts have judgment against pltffs denying claims for relief and dismissing complaint with costs to be taxed. Pollack, J.
JUDGMENT ENTERED. Clk. (mn)

Sept. 26, 1975 Filed pltff's aff. & notice of motion limiting the costs which were taxed by the clerk ret. 10-14-75.

Sept. 26, 1975 Filed pltff's memo in support of motion to limit costs.

Sept. 22, 1975 Bill of costs as taxed in sum of $840.37 in favor of defts as against all pltffs and added to judgment as #75,774. Clk.

Sept. 22, 1975 Filed BILL OF COSTS AS JUDGMENT #75,774 in sum of $840.37. Clk.

Oct. 7, 1975 Filed Stip & Order that pltffs' motion to amend bill of costs filed herein and taxed by Clerk on 9/22/75 to exclude fees of Court Reporter taxed at $760.37 and include only $60.00 witness fees and $20.00 docket fees, totalling $80.00 to be paid by pltffs. Pollack, J.

Oct. 30, 1975 Filed pltff's notice of appeal from judgment entered on 9/5/75 (mailed copy to U.S. Atty, U.S. Courthouse Annex on 10/31/75).

* Dec. 18, 1972 Filed memo of law submitted on behalf of the plaintiffs in support of their motion for an order compelling discovery.

* Jan. 16, 1973 Filed plaintiffs' motion in reply to defendants memo. in opposition to the motion for an order compelling discovery.

* April 4, 1975 Filed plaintiff's proposed Statement of Facts and Conclusions of Law.

* Dec. 29, 1972 Filed defendants' Memorandum in opposition to the motion for an order compelling discovery.

[Sgd] A. E. Thompson
Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

EDWARD KAVAZANJIAN, et. al.	:	UNITED STATES DISTRICT COURT
	:	FOR THE SOUTHERN DISTRICT
Plaintiffs,	:	OF NEW YORK.
	:	
v.	:	CASE NO. 69 CIV 3074
	:	
U.S. IMMIGRATION & NATURALIZATION SERVICE,	:	JUDGE POLLACK
	:	
Defendants.	:	

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7. Letter from L.H. Baer to E.A. Loughran, October 18, 1967

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BB. Memorandum from Esperdy to Benemio, November 8, 1967

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FORM NO. 1 CIVIL ACTION D. C. Form No. 45 Rev. (6-49)

United States District Court

FOR THE

SOUTHERN DISTRICT OF NEW YORK

CIVIL ACTION FILE NO.....

[illegible], FRANK DERENZO, EDWARD [illegible], FRANK COSTAS, JOSEPH D'AMICO, JOSEPH [illegible], ALEX FEUERSTEIN, MARTIN GREENFIELD, [illegible] MARTIN, ARTHUR OPPOLIAN, PETE SCALCIONE, [illegible] A CLASS, ALL INVESTIGATORS OF THE U. S. IMMIGRATION AND NATURALIZATION SERVICE, IMMIGRATION AND NATURALIZATION SERVICE LOCAL [illegible]. 1917 (American Federation of Government [illegible]-CIO), AND NATIONAL COUNCIL OF [illegible] NATURALIZATION LOCALS,

Plaintiffs

v.

IMMIGRATION AND NATURALIZATION SERVICE, [illegible] U.S. CIVIL SERVICE COMMISSION, and THE [illegible] STATES OF AMERICA,

Defendants

SUMMONS

To the above named Defendants :

You are hereby summoned and required to serve upon

ELMER FRIED, ESQ.

plaintiff's attorney , whose address

515 Madison Avenue
New York, N.Y. 10022

an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Clerk of Court.

Deputy Clerk.

Dated July 14, 1969.

[Seal of Court]

This summons is issued pursuant to Rule [illegible] of the Federal Rules of Civil Procedure.

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDWARD KAVAZANJIAN, FRANK BENEMIO, EDWARD BERTELE, FRANK COSTAS, JOSEPH D'AMICO, JOSEPH FARRELL, ALEX FLASTERSTEIN, MARTIN GREENFIELD, JOHN MARTIN, ARTHUR OPPOLION, PETE SCALCIONE, AND, AS A CLASS, ALL INVESTIGATORS OF THE U.S. IMMIGRATION AND NATURALIZATION SERVICE, IMMIGRATION AND NATURALIZATION SERVICE LOCAL NO. 1917 (American Federation of Government Employees AFL-CIO), AND NATIONAL COUNCIL OF IMMIGRATION AND NATURALIZATION LOCALS,	COMPLAINT
Plaintiffs,	
-against -	
U.S. IMMIGRATION AND NATURALIZATION SERVICE, THE U.S. CIVIL SERVICE COMMISSION, and THE UNITED STATES OF AMERICA,	
Defendants.	

Plaintiffs, for themselves and on behalf of all Investigators of the Immigration and Naturalization Service, complaining of the defendants, by ELMER FRIED, their attorney, allege:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF EDWARD KAVAZANJIAN AND ALL INVESTIGATORS SIMILARLY SITUATED.

1. Plaintiff Edward Kavazanjian is, and at all the times hereinafter mentioned has been, an employee of the defendants, to wit, an Investigator assigned to the New York District of the Immigration and Naturalization Service. He is also President of the National Council of Immigration and Naturalization Locals.

2. Plaintiffs Frank Benemio, Edward Bertele, Frank Costas, Joseph D'Amico, Joseph Farrell, Alex Flasterstein, Martin Greenfield, John Martin, Arthur Oppolion, Pete Scalcione, are, and at all the times hereinafter mentioned, have been, employees of

the U.S. Immigration and Naturalization Service, to wit, Investigators assigned to the New York District of the Immigration Service.

3. Plaintiff Local No. 1917 (American Federation of Government Employees AFL-CIO) (hereinafter known as "Local No. 1917") is a duly chartered lodge of a duly formed nationwide labor organization, with jurisdiction embracing employees of the New York District of the Immigration and Naturalization Service. Said plaintiff has the right and privilege of exclusive representation of the employees of the New York District of the Immigration and Naturalization Service under the provisions of Executive Order No. 10988.

4. Plaintiff National Council of Immigration and Naturalization Service Locals (hereinafter known as "National Council" is an unincorporated association consisting of Locals located throughout the United States, all having the same nature and function as plaintiff Local No. 1917; its principal place of business is within the Southern District of New York, the place of business of its President, Edward Kavazanjian.

5. The causes of action of the named plaintiffs herein arose within the Southern District of New York. With respect to unnamed plaintiffs of the class action, such plaintiffs reside in various parts of the United States, and the causes of action with respect to them arose in their duty stations in various parts of the United States.

6. Jurisdiction of this Court is claimed by virtue of 28 U.S.C. Sec. 1346(a)(2), 1361, 2201 and 5 U.S.C. Sec. 702. Venue is within this District by virtue of 28 U.S.C. Sec. 1391(e). To the extent that the complaint sets forth a class action, it is by virtue of Rule 23, Federal Rules of Civil Procedure.

7. Defendant U.S. Immigration and Naturalization Service is an agency under the control and jurisdiction of the Attorney General of the United States (hereinafter in this complaint, it will be designated as the "Service"). Defendant U.S. Civil Service Commission is an independent agency of the Government of the United States (hereinafter in this complaint, it will be designated as the "Commission").

8. On or about June 6, 1967, in a decision of the Commission, upon a classification appeal filed by plaintiff Edward Kavazanjian from the refusal of the Service to classify him higher than GS-11, it was held and adjudicated that said plaintiff had been performing work of a nature and level entitling him to the grade and pay level denominated GS-12 under Civil Service Law. Defendant Service thereafter reclassified said plaintiff to GS-12.

9. Plaintiff Edward Kavazanjian had in truth and in fact been performing the same type and level of services, entitling him at least to GS-12 classification under law, from a date prior to the said decision of June 6, 1967, to wit, from at least April 1963, and from and after April 1963, the defendant Service and the defendant Commission both knew, and had reason to know, that plaintiff Edward Kavazanjian was entitled to be classified and paid at GS-12 level, by reason of the type of work he was doing; and both defendants had the duty to classify him and cause him to be paid at such level, but refused and neglected to do so, but instead required him to perform GS-12 services while paying him at GS-11 level; and the defendant Service and the United States of America received and accepted his services without paying him therefor at the rate required by law.

10. Plaintiff Edward Kavazanjian has been damaged in an amount constituting the differential between the GS-12 salary which he ought to have received from and after at least April 1963 until he was officially reclassified to GS-12 and paid that salary; and plaintiff's damages total the sum of $10,000.00, the plaintiff expressly waiving his damages in excess of that amount in order to permit this Court to maintain jurisdiction in said claim, and plaintiff further waives any claim for damages antedating a period of six (6) years prior to the commencement of this action.

11. The Class Plaintiffs similarly situated with plaintiff Edward Kavanzanjian, adopt for themselves the allegation contained in paragraphs "8", "9" and "10" hereinabove, mutatis mutandis.

WHEREFORE, plaintiff Edward Kavazanjian and the Class Plaintiffs similarly situated demand judgment against defendants in the sum of $10,000.00 each, together with interest and the costs of this action.

AS AND FOR A SECOND CAUSE OF ACTION BY PLAINTIFFS FRANK BENEMIO, EDWARD BERTELE, FRANK COSTAS, JOSEPH D'AMICO, JOSEPH FARRELL, ALEX FLASTERSTEIN, MARTIN GREENFIELD, JOHN MARTIN, ARTHUR OPPOLION, PETE SCALCIONE, AND ALL INVESTIGATORS SIMILARLY SITUATED.

12. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1", "2", "3", "4", "5", "6" and "7" of the complaint herein, with the same force and effect as if set forth at length herein.

13. Said plaintiffs are performing, and for more than six (6) years past have been performing, services of a type and level requiring, under law, the classification and pay of GS-12 level.

14. Defendants knew, and had reason to know, that said plaintiffs were entitled to be classified and paid at GS-12 level, and had the right, power and duty to classify them and pay them

at such level; but instead defendants failed and refused so to classify them, and instead required them to perform GS-12 level services while paying them at GS-11 pay rates; and defendants Service and the United States of America received and accepted such services without paying said plaintiffs for their services at the rate required by law.

15. Defendant Commission, notwithstanding the said plaintiffs' appeal for proper classification, have erroneously and wrongfully refused to classify said plaintiffs at GS-12 level.

16. Defendant Commission, on classification appeals, held and adjudicated that said plaintiffs were not performing work on GS-12 level, basing its decision upon error of fact and error of law; that the error of law was that in order for an Investigator to be classified at GS-12, more than fifty (50%) per cent of his time had to be spent on work of that level, which ruling of law was contrary to the Civil Service Law; and the error of fact of defendant Commission lay in the finding that said plaintiffs did not spend a majority of their time on work of said level, said finding of fact being without evidence to support it and being contrary to the evidence adduced.

17. Said plaintiffs have been damaged in an amount constituting the differential between the GS-12 salary which they ought to have received for a period of six (6) years antedating the commencement of this suit; and they waive any damages in excess of the sum of $10,000.00 each, in order for this Court to retain jurisdiction in this action; and they waive damages arising from underpayment antedating six (6) years from the date of the commencement of this action.

WHEREFORE, said plaintiffs demand judgment against defendants in the sum of $10,000.00 each, together with interest and costs of this action; and said plaintiffs further demand

judgment declaring that said plaintiffs are entitled to be classified and to receive the pay and prerogatives of GS-12 classification, and directing defendants so to classify them.

AS AND FOR A THIRD CAUSE OF ACTION BY PLAINTIFFS LOCAL NO. 1917 (AFGE AFL-CIO) AND NATIONAL COUNCIL OF INS LOCALS AND PLAINTIFFS FRANK BENEMIO, EDWARD BERTELE, FRANK COSTAS, JOSEPH D'AMICO, JOSEPH FARRELL, ALEX FLASTERSTEIN, MARTIN GREENFIELD, JOHN MARTIN, ARTHUR OPPOLION, PETE SCALCIONE, AND ALL INVESTIGATORS SIMILARLY SITUATED.

18. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1", "2", "3", "4", "5", "6" and "7" of the complaint herein as if set forth at length herein.

19. Defendant Service has declined to reclassify said plaintiffs to GS-12 upon the ground that defendant Commission has ruled that fifty (50%) per cent of the time of an Investigator must be spent in performing GS-12 level work to entitle him to GS-12 classification; but at the same time and in various parts of the country, the defendant Service has reclassified to GS-12, Investigators who acknowledgedly perform GS-12 level services for less than fifty (50%) per cent of their working time; and the defendant Service has reclassified to GS-12, Investigators in other parts of the country whose percentage of GS-12 level work was no greater than the percentage of GS-12 level work performed by these plaintiffs; and defendant Service has thereby discriminated in an arbitrary and capricious fashion, and unlawfully, against the plaintiffs herein, by failing to treat them equally, for classificati purposes, with other Investigators situated elsewhere in the United States.

20. Defendant Commission has, with respect to employees situated elsewhere in the United States, advised and counselled defendant Service that it is free to reclassify Investigators to

GS-12 level if a "substantial" percentage, but not a majority, of their time is spent in GS-12 level work; and the defendant Commission has therefore established and authorized two levels of evaluation of classification which are contradictory to one another, to wit, declaring that the "majority of time" rule applies to the plaintiffs herein, but declaring that the "substantial time" (and less than majority) rule applies to all other Investigators.

21. That defendant Commission has thereby purported to sanction arbitrary, capricious, discriminatory and unequal treatment of employees by defendant Service, in violation of the Civil Service Laws and in violation of its duties and proper function.

22. That defendant Commission has defined "substantial time" to exist when an Investigator performs twenty-to-twenty-five (20%-to-25%) per cent of his work at GS-12 level; and defendant Commission has authorized defendant Service to reclassify some Investigators to GS-12 level within the "substantial time" standard while refusing to recognize the right of these plaintiffs, all of whom comply fully with at least the "substantial time" formula, if not with the "majority of time" formula.

23. By reason of the unlawful, arbitrary and discriminatory actions of the defendants, each of the plaintiffs has been damaged in an amount equal to the differential between the GS-12 salary level that should have been theirs and the GS-11 salary level at which they have been employed; and defendants Service and United States of America have required and accepted th service of said plaintiffs at a pay level less than that required

by law. Each said plaintiff has been damaged in the sum of $10,000.00 and each said plaintiff waives damages in excess of that amount in order to preserve the jurisdiction of this Court to award money damages, and expressly waives any damages which accrued more than six (6) years antedating the commencement of this action.

WHEREFORE, the individual plaintiffs demand judgment against defendants in the sum of $10,000.00 each, together with interest and the costs of this action; and all named plaintiffs demand judgment mandating and requiring defendants to apply to all Investigators in any part of the United States, the same standard for classification heretofore applied by defendants in classifying other GS-11 Investigators to GS-12, to wit, by directing said defendants to reclassify to GS-12 level, all those GS-11 Investigators meeting the "substantial amount" standard heretofore applied by defendants in favor of some Investigators.

AS AND FOR A FOURTH CAUSE OF ACTION BY PLAINTIFFS LOCAL NO. 1917 (AFGE AFL-CIO) AND NATIONAL COUNCIL OF INS LOCALS AND PLAINTIFFS JOSEPH D'AMICO, JOSEPH FARRELL, PETE SCALCIONE, FRANK BENEMIO, EDWARD BERTELE, FRANK COSTAS, ALEX FLASTERSTEIN, MARTIN GREENFIELD, JOHN MARTIN, ARTHUR OPPOLION AND ALL INVESTIGATORS SIMILARLY SITUATED.

24. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1", "2", "3", "4", "5", "6" and "7" of the complaint herein, with the same force and effect as if set forth at length herein.

25. From and about October 4, 1967 to May 13, 1968, plaintiff Joseph D'Amico was actively engaged, for a majority of his time, in a major investigation involving frauds committed against defendant Service, of a type and level classifiable as GS-12 level work. On or about May 9, 1968, plaintiff Joseph

D'Amico requested the Civil Service Commission to reexamine his case in the light of such investigation. On or about May 13, 1968 and solely by reason of said request by said plaintiff, the defendant Service withdrew such investigation from plaintiff D'Amico. Such action was for the sole purpose of reducing the quantity of GS-12 level work in his possession to an amount requiring less than fifty (50%) per cent of his time, and was taken solely to defeat his claim to GS-12 classification. Such action was accepted and countenanced by defendant Commission upon the ground that, at the time of examination of his claim, he was no longer performing GS-12 level work to an amount exceeding fifty (50%) per cent of his time.

26. The foregoing procedure is applied to the other named and unnamed plaintiffs herein, to wit, to order such Investigators to cease and desist from continuing investigations of GS-12 level nature, whenever it comes to the attention of one or another official of the Service that the continuance or consummation of such investigation may result in said Investigator's spending more than fifty (50%) per cent of his time performing at GS-12 level. Such practices are not designed to improve the efficiency of the Service, but are solely for the purpose of preventing GS-11 Investigators from complying with the "majority of time" rule erroneously established, as previously alleged, by defendant Commission. The said actions are in violation of the rights of the plaintiffs, are arbitrary, capricious and unreasonable, and deny them their rights to grade classification in accordance with law.

27. Said plaintiffs have been damaged to the extent of the differential between the GS-12 classification that should have

been theirs, and the GS-11 salary which they have been paid during said period of time. The damage to each individual plaintiff is in the amount of $10,000.00, each plaintiff waiving any claim to damage for more than $10,000.00 in order to preserve the jurisdiction of this Court with respect to this action, and each plaintiff waives any claim for damages antedating six (6) years prior to the commencement of this action.

WHEREFORE, the individual plaintiffs each demand judgment in the sum of $10,000.00, together with interest and the costs of this action, and each individual plaintiff demands judgment that investigative work removed from his charge for the sole purpose of defeating his claim to GS-12 classification, be restored to him; and plaintiffs Local No. 1917 and National Council demand judgment mandating and enjoining defendant Service from removing duly assigned work from Investigators when done for the sole purpose of defeating said Investigator's claim to GS-12 level classification.

ELMER FRIED
Attorney for Plaintiffs
515 Madison Avenue
New York, New York 10022

212 688-8555.

DR:ka
55149

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

EDWARD KAVAZANJIAN, et al.,

Plaintiffs,

-v-

UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, the UNITED STATES CIVIL SERVICE COMMISSION, and the UNITED STATES OF AMERICA,

Defendants.

- x

ANSWER

69 Civ. 3074

Defendants, by their attorney, Whitney North Seymour, Jr., United States Attorney for the Southern District of New York, answers the Complaint herein as follows:

FIRST DEFENSE

1. The Complaint fails to state a claim against the defendants upon which relief can be granted.

SECOND DEFENSE

2. The Court lacks jurisdiction over the subject matter of the Complaint.

THIRD DEFENSE

3. There is not a question of law or fact common to the alleged class, nor can the named plaintiffs fairly and adequately protect the interests of the alleged class.

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149

FOURTH DEFENSE

4. The plaintiffs lack standing to sue.

FIFTH DEFENSE

5. The Complaint fails to join indispensable parties, the individual Commissioners of the Civil Service Commission.

SIXTH DEFENSE

6. The claims of plaintiffs Bertele, Plasterstein, D'Amico, Scalcione, Benemio, and Farrell are barred by laches.

SEVENTH DEFENSE

7. Admits the allegations contained in paragraphs numbered 1, 2, and 7.

8. Admits only so much of paragraph 8 that alleges that plaintiff Kavazanjian filed a classification appeal with the defendant Civil Service Commission with respect to the reclassification of his position from GS-11 to GS-12 and that as a result of said appeal his position was reclassified to the GS-12 level.

9. Denies information or knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs numbered 4 and 5.

DR:ka
55149

10. Denies each and every other allegation contained in the Complaint.

WHEREFORE, defendants demand judgment dismissing the Complaint herein with costs and disbursements of this action and for such other and further relief as this Court may deem just and proper.

Dated: New York, New York

January 26, 1970

WHITNEY NORTH SEYMOUR, JR.
United States Attorney for the
Southern District of New York
Attorney for Defendants

By: /s/
DANIEL RIESEL
Special Assistant United States Attorney
Office and Post Office Address:
United States Court House
Foley Square
New York, New York 10007
Telephone: 264-6324

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

EDWARD KAVAZANJIAN, et al,

Plaintiffs,

- against -

U.S. IMMIGRATION AND NATURALIZATION SERVICE, the U.S. CIVIL SERVICE COMMISSION, and the UNITED STATES OF AMERICA,

Defendants.

: STIPULATION ADDING ADDITIONAL PARTIES DEFENDANT

: 69 Civ. 3074

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IT IS HEREBY STIPULATED by and between the attorneys for the respective parties that the complaint and answer in this action shall be and the same are hereby amended to add Robert E. Hampton, James E. Johnson, and L. J. Andolsek, members of the U.S. Civil Service Commission, as defendants, so as to read as follows:

Edward Kavazanjian, et al.,

Plaintiffs,

- against -

U.S. Immigration and Naturalization Service; the U.S. Civil Service Commission; Robert E. Hampton, James E. Johnson, and L. J. Andolsek, Members of the U.S. Civil Service Commission; and the United States of America,

Defendants.

Dated: New York, N.Y.
November ,1970

Elmer Fried
Attorney for Plaintiffs
515 Madison Avenue
New York,N.Y. 10022

United States Attorney
Southern District of New York
Attorney for Defendants

ORDERED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

JOHN KAVANAUGH, et al.,

Plaintiffs

- against -

U. S. IMMIGRATION AND NATURALIZATION SERVICE, et al.

Defendants

----------X

Civil Action No.
69 Civ. 3074

Notice of Motion

SIRS:

PLEASE TAKE NOTICE that upon the annexed affidavit of fact, and the pleadings herein, plaintiffs will move this Court at Room [illegible], United States Court House, Foley Square, New York, New York, on [illegible], 1971 at 10:00 A.M., or as soon thereafter as counsel can be heard, for a determination pursuant to Rule 23 (c)(1), as amended, of the Federal Rules of Civil Procedure that the above-entitled action is maintainable as a class action, and granting plaintiffs such other and further relief as may be just.

Dated: [illegible], 1971

ELMER FRIED
Attorney for Plaintiffs
515 Madison Avenue
New York, New York 10022

TO: United States Attorney
Southern District of New York
United States Court House
Foley Square
New York, New York 10007
Attorneys for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDWARD KAVAZANJIAN, et. al.

Plaintiffs

- against

U. S. IMMIGRATION AND NATURALIZATION SERVICE, et. al

Defendants

69 Civ. 3074

AFFIDAVIT OF EDWARD KAVAZANJIAN IN SUPPORT OF MOTION OF PLAINTIFFS FOR A DETERMINATION PURSUANT TO RULE 23 (c)(1), AS AMENDED, OF THE FEDERAL RULES OF CIVIL PROCEDURE THAT THE ABOVE-ENTITLED ACTION IS MAINTAINABLE AS A CLASS ACTION.

State of New York)
County of New York) ss

I, EDWARD KAVAZANJIAN, being duly sworn, disposes and says:

1. I am presently employed as an investigator in the New York District Office of the Immigration and Naturalization Service and served as President of the National Council of Immigration and Naturalization Service Locals from September, 1968 to October, 1970. I have personal knowledge of all the matters hereinafter referred to, and make this affidavit in support of plaintiffs' motion for determination that this action is maintainable as a class action.

2. All the named plaintiffs are investigators employed by the Immigration and Naturalization Service, with the exception of plaintiff Local 1917 (American Federation of Government Employees AFL-CIO) and plaintiff National Council of Immigration and Naturalization Service Locals.

3. Plaintiff Local No. 1917 (American Federation of Government Employees (AFL-CIO) (hereinafter known as "Local No. 1917") is a duly chartered lodge of a duly formed nationwide labor organization, with jurisdiction embracing employees of the New York District of the Immigration and Naturalization Service. Said

plaintiff has the right and privilege of exclusive representation of the employees of the New York District of the Immigration and Naturalization Service under the provisions of Executive Order No. 10988

4. Plaintiff National Council of Immigration and Naturalization Service Locals (hereinafter known as "National Council") is an unincorporated association consisting of Locals located throughout the United States, all having the same nature and function as plaintiff Local No. 1917, it maintains an office within the Southern District of New York, the place of business of its former President, and Liaison Officer, Edward Kavazanjian

5. The Immigration and Naturalization Service employs approximately 780 investigators.

6. Investigators employed by the Immigration and Naturalization Service are stationed in 33 District Offices and 16 Interior Locations (suboffices) throughout the United States, as well as four District Offices and several suboffices abroad. Approximately 28 District Offices and 5 Interior Locations (suboffices) are located in different states and the Territory of Puerto Rico. Virtually every office falls within a different federal judicial district.

7. Defendants knew or had reason to know that employees of the Immigration and Naturalization Service, categorized as investigators, performed work of a higher grade level than the grade level in which they were classified prior to the time of any reclassification or the filing of classification appeals.

8. The Immigration and Naturalization Service, upon the approval and recommendation of the Civil Service Commission, applies a "majority" time standard for classification of some investigative employees of the Immigration and Naturalization Service and a "substantial" time standard to other employees of the Immigration and Naturalization Service.

9. The Civil Service Commission utilizes the "majority

time" standard as the basic rule to be implemented in determining the grade level classification of employees of the Immigration and Naturalization Service whereas the Civil Service Commission utilizes different time standards for some categories of employees in different federal departments or agencies.

10. Higher grade level work, on which a reclassification appeal was based, was removed from certain members of the class before surveys of the work performed were conducted by the Civil Service Commission, thus resulting in findings that less than the percentage of work required for reclassification to the higher grade level fell within the higher grade level classification.

11. More than 50% of the time of certain investigators was spent on higher grade level work, and upon classification appeals, the defendant Commission found that less than 50% of the time of these investigators was spent on higher grade level work.

12. Certain investigators have spent a substantial portion of their time performing higher grade level duties but not a majority of their time, and received no compensation for the higher grade level work performed.

13. There is no divergence or conflict of interest among any representatives of the class or member of the class or of any subclass.

14. The representative parties present claims which are virtually identical to the claims of the members of the class. All major claims which could be asserted by members of the class are contained within the claims of the representative parties.

15. Counsel for plaintiffs is experienced in civil service classification matters and serves as General Counsel to the National Council of Immigration and Naturalization Service locals Four other attorneys are associated with Counsel in the practice of law.

16. There is no similar litigation which has been commenced by any member of the class.

17. The District Office in which the greatest number of employees aggrieved by the actions of the defendants are employed, is the New York District Office of the Immigration and Naturalization Service, which is located within the Southern District of New York.

18. The headquarters of plaintiff Local 1917 as well as an office of the National Council of Immigration and Naturalization Service Locals, is located within the Southern District of New York.

EDWARD KAVAZANJIAN

Sworn to before me
this 14th day of January, 1971.

ELMER FRIED
Notary Public, State of New York
No. 41-6400935
Qualified in Queens County
Commission Expires March 30, 19.....

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

MICROFILM
AUG 19 9..

U.S. DISTRICT COURT
FILED
AUG 19 1971
S.D. OF N.Y.

EDWARD KAVANJIAN, et al.

Plaintiffs,

- against -

UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, et al.

Defendants.

ORDER

69 CIV. 3074

This cause being heard on March 23, 1971 upon the plaintiffs' motion before this court for an order pursuant to Rule 23 (c)(1) of the Federal Rules of Civil Procedure that this action is to be maintained as a class action under Rule 23 (b)(1) and (2) for and on behalf of plaintiffs and those similarly situated, and

Attorney for defendents, Whitney North Seymour, Jr., United States Attorney for the Southern District of New York (Daniel Reisel appearing), having entered their appearance herein and consented to the relief sought by such motion, and

This Court having considered the pleadings, the supporting affidavit of Edward Kavazanjian, the memorandum of law of the plaintiffs and all other papers and proceedings herein, and good cause appearing therefor:

IT IS ORDERED that the above entitled action is to be maintained as a class action under Rule 23 (b)(1) and (2) of the Federal Rules of Civil Procedure on behalf of a class composed of plaintiffs and all other persons employed as investigators by the U.S. Immigration and Naturalization Service on ... 14, 1969, the date suit was filed, and who are seeking damages for back pay from the date the defendants allegedly knew or had reason to know each individual was performing sufficient

higher grade level work to warrant reclassification until that person was reclassified, or, where that person was not reclassified, until this suit has been concluded.

FURTHER ORDERED that within the general class, the following sub-classes are present:

1. Plaintiffs and all other persons employed as investigators by the U.S. Immigration and Naturalization Service (hereinafter referred to as Service) who seek (a) injunctive relief from the alleged policy of defendants in applying the "majority time" standard to certain members of the Service and the "substantial time" standard to other employees of the Service; (b) injunctive relief from the alleged policy of plaintiffs basing the classification upon those duties which occupy a majority of the employee's time, while other categories of federal government employees are classified on the basis of a lesser time standard; and (c) damages from the date each individual was allegedly performing higher grade level duties for a substantial portion of his time until he was reclassified, or, where the person was not reclassified, until this suit has been concluded.

2. Plaintiffs and all other persons employed as investigators by the Service, who allege that after filing a classification appeal, higher grade level work was removed from them so that less than fifty (50%) per cent of work performed, necessary for reclassification, would be within the higher grade level.

3. Plaintiffs and all other persons employed as investigators by the Service who seek damages from the time their classification appeals were denied,

upon the allegedly erroneously finding of that reclassification necessitated the performance of higher grade level work for a majority portion of the employee's time, rather than a substantial portion of the employee's time, until that person was reclassified, or where the person was not reclassified, until this suit has been concluded.

4. Plaintiffs and all other persons employed as investigators by the Service who seek damages which allegedly resulted from a denial of a higher grade level based upon an allegedly erroneous finding that less than fifty (50%) per cent of their time was spent on higher grade level work.

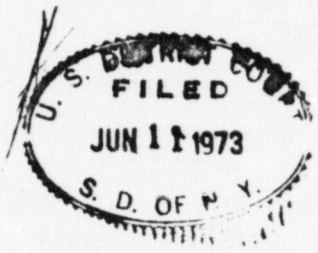
FURTHER ORDERED that notice of this action shall be disseminated through plaintiff National Council of Immigration and Naturalization Service Locals, American Federation of Government Employees, to all Locals for distribution to their members and shall be posted by said Locals in a conspicuous place in every office of the Immigration and Naturalization Service and, finally, shall be presented in the Newsletter of the National Council. The annexed form sets forth the content of such notices.

FURTHER ORDERED, that the judgment in the above-entitled action, whether or not favorable to the aforesaid class and subclass or any member thereof, shall include and describe all members of said class and subclass.

JUDGE, UNITED STATES DISTRICT COURT

Dated: August 5th, 1971.

...ES DISTRICT COURT
...ISTRICT OF NEW YORK



...ARD KAVAZANJIAN, et al.,

Plaintiffs.

-against-

...UNITED STATES IMMIGRATION &
...URALIZATION SERVICE, et al.,

Defendants.

69 Civ. 3074

ORDER

Upon consideration of pla... motion to compel discovery, and upon defendants oppo... ereto, and upon all proceedings had herein it is hereby

ORDERED that, to the exte... documents exist, and to the extent they have not already ... ...rnished, that defendant furnish to plaintiffs for inspecti... ...ing:

1. "Th... memorandum or repor... ...ing the findings of the nation-wide ... of GS-12 level positions conducted by the ...gration and Naturalization Service in ... ...pring, 1967."

2. "Reports, memoranda or statistical information concerning and containing the facts and findings of Mr. Augustine and Mrs. McLynn as a result of the survey of GS-11 employees of the Service conducted in 1967."

IT IS FURTHER ORDERED that the Court will withhold ruling upon plaintiffs request for discovery of:

1. Any papers, documents, or other materials relevant to GS classification or grade level, including the contents of the files, particularly appeals files - maintained by the Service of the following persons: Edward Kavazanjian,

Frank Benemio, Edward Berlo[illegible], [illegible] Costos, Joseph D'Amico, Joseph [illegible], [illegible] Blasterstein, Martin [illegible], John Martin, Arthur Oppol, Pete Scalcione, John Adamczyk, George Farrant, and [illegible]

2. "The contents of the files, including the statistical analysis or other relevant materials of the employees of the Service who were upgraded by the Service as a result of the survey conducted in 1967, particularly the notes, statistic or other factors upon which the reclassification was based."

in order to permit the defendant to determine the extent of the burden, if any, which such request will place upon it, and to enable the parties to attempt to reach an agreement relating to the inspection and copying of such documents.

IT IS FURTHER ORDERED that the Court will issue no ruling related to defendants request for production of the result and statistics of the site audits of the 54 investigators working for the New York Office of the Service conducted by the Commissi[illegible] in the latter part of 1966 and the early part of 1967 mentioned in the letters of February 1, 1967 sent to the 54 investigators, 11 of whom were reclassified, based upon defendants representati[illegible] that such documents do not exist. Should any such documents be found by defendants to exist at any future time, they shall immediately be made available to plaintiffs.

Thomas P. Griesa

THOMAS P. GRIESA
U.S. DISTRICT JUDGE

DATED: MAY 30, 1973

NEW YORK,

U.S. DISTRICT COURT
FILED
AUG 2 1973
S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - -X
:
EDWARD KAVAZANJIAN, et al.,
:
Plaintiffs,
:
v. 69 Civ. 3074
:
THE UNITED STATES IMMIGRATION & AMENDMENT TO ORDER
NATURALIZATION SERVICE, et al.,
:
Defendants. :
- - - - - - - - - - - - - - - - - - -X

GRIESA,

My order of June 8, 1973 is amended to require that the documents required under that order are to be produced on or before August 30, 1973.

So ordered.

Dated: New York, New York
July 31, 1973

Thomas P. Griesa

THOMAS P. GRIESA
U.S.D.J.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDWARD KAVAZANJIAN, et al.,

Plaintiffs,

-v-

UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, et al.,

Defendants.

69 Civ. 3074 (MP)

PLAINTIFFS' AND DEFENDANTS' STATEMENT OF UNCONTESTED AND CONTESTED FACTS

Pursuant to the instructions of this court the plaintiffs and defendants submit herewith the following statement of facts all of which are agreed upon as being uncontested except where noted. In cases where facts are contested the plaintiffs' version of the facts is set forth followed by defendants' version.

1. At the time of the commencement of this action, all named plaintiffs were non-supervisory General Investigators, employed by the U.S. Immigration & Naturalization Service (hereafter "INS"), and classified under the General Schedule for Federal Civil Service Employees.

2. At the time of the commencement of this action, all named plaintiffs, with the exception of plaintiff Edward Kavazanjian, were graded at level GS-11, under the General Schedule. Plaintiff Kavazanjian was graded at GS-12.

3. In 1959, a standard was published by the United States Civil Service Commission, which, by statute, governed the classification and grades of non-supervisory General Investigators employed by INS. Such standard provided for grade levels of GS-9, GS-11, and GS-12 for General Investigators. This standard constituted the

basis under which the Immigration Service was required to classify the named plaintiffs, and other General Investigators.

4. In 1962, plaintiff Edward Kavazanjian was appointed as a General Investigator with INS at a grade level of GS-11.

5. As of 1963 there were no non-supervisory General Investigators employed by INS in the New York Region at the GS-12 grade level.

In 1963, in response to a letter from the National President of the American Federation of Government Employees inquiring whether INS planned to establish non-supervisory Investigator positions at the GS-12 level, INS stated that when investigative responsibilities occurred at that level they were assigned to supervisory investigators already at the GS-12 level. INS stated it did not contemplate establishing any GS-12 "journeymen" (i.e. non-supervisory) positions at that time.

Contested Facts

Plaintiffs - The INS' statement to the effect that GS-12 level work was being assigned to supervisors was incorrect. Plaintiffs were, in fact performing the GS-12 level investigations defined in the standard, and INS was, therefore, required to establish non-supervisory GS-12 positions and to upgrade plaintiffs.

Defendants - Whether or not to establish non-supervisory positions at the GS-12 level was a matter to be determined by INS. It was the position of INS in 1963 that if there was GS-12 level work for Investigators it was not sufficient at the time to warrant the development of non-supervisory GS-12 Investigator positions.

6. Contested Facts

Plaintiffs - At all times since the publication of the Position Classification Standard in 1959, Supervisory Investigators almost never went out into the field to perform any investigations at all. Investigations at the GS-12 level occurred regularly and were carried through and performed by GS-11 investigators. Such investigations were assigned to them by supervisors, whose participation did not go beyond such assignment.

Defendants - If investigations at the GS-12 level occurred they were carried through or directed and directly supervised by GS-12 supervisory investigators.

7. Between December of 1963, and approximately June, 1966, plaintiff Edward Kavazanjian and other General Investigators attempted to persuade the Immigration & Naturalization Service that they were, in fact, performing work at the title and grade of General Investigators, GS-12.

8. Between 1963 and 1969 INS and the Civil Service Commission studied the assignment of work policies and position classification policies of INS.

Contested Facts

Plaintiffs - Between 1963 and 1969, INS did not make a good faith effort to determine whether or not any of its investigators were entitled to be classified at grade level GS-12, and in fact, employed dilatory tactics and outright deception to justify its failure to upgrade any investigators. The studies done by the Civil Service Commission revealed that Investigators at INS were receiving inadequate grades, and that it was the policy of INS to hold down Investigators grades regardless of the Classification Standard.

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Defendants - During the period 1963-1969 INS and the Civil Service Commission undertook extensive and good faith efforts to study and improve the work assignment and position classification policies of INS.

9. In 1966 fifty-two General Investigators including named plaintiffs Kavazanjian, Bertele, Flasterstein, D'Amico, Benemio, and Farrell, filed formal classification appeals with the Civil Service Commission (hereinafter CSC), requesting that their positions be upgraded from GS-11 to GS-12.

10. In consideration of the classification appeals the Civil Service Commission conducted an audit of the plaintiff Kavazanjian and another investigator, Jack Lazerus, to determine the amount of work they performed at various grade levels.

Contested Facts

Plaintiffs - In adjudication of plaintiffs classification appeals, only two of the 52 appellants were audited. The survey done by the auditor was incomplete, non-objective, and inaccurate. The plaintiffs who were audited were told that the "substantial time" rule would be applied. This meant that the Commission was requiring that an incumbent had to be spending only twenty to twenty-five percent of his time on grade twelve level work in order to be upgraded from GS-11 to GS-12.

Defendants - During these classification appeals the Civil Service Commission also conducted audits of the other appellant Investigators to determine the amount of work they performed at various grade levels.

11. On February 1, 1967 the New York Regional Office of the Civil Service Commission ruled on the appeals

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of 48 General Investigators of INS (see Paragraph 9 - four appeals had been withdrawn). Eleven Investigators were upgraded to GS-12; one Investigator was downgraded to GS-9; the appeals of 36 Investigators were denied (i.e. they were found properly graded at GS-11). The six named plaintiffs set forth in Paragraph 9 were among those whose appeals were denied. Those plaintiffs whose appeals were denied received letters setting forth the bases for the decision. The decisions were based upon an application of the majority time rule. The majority time rule is, in effect, a [illegible] employee may be reclassified to a higher [illegible] a majority of his or her time is spent on work of [illegible].

Contested Facts

Plaintiffs - The plaintiffs whose appeals were denied received only form letters containing no meaningful explanation as to how the adverse decision in their cases had been reached. In fact, these decisions were made in total disregard of the auditor's observations concerning plaintiffs work, and in total disregard of the Position Classification Standard. Such decisions were based upon non-objective, inaccurate and incomplete evaluations made of plaintiffs duties in a grossly unfair way.

Defendants - The decisions of the Regional Office were based on accurate and objective evaluations of the appellant Investigators' work and duties and a comparison of their work and duties with the applicable classification Standard.

12. In March, 1967, twenty-five General Investigators appealed the denial of their classification appeals to the Commission's Bureau of Inspections in Washington, D.C. The six named plaintiffs included their cases in this appeal.

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13. Twenty-five of the Investigators whose appeals were denied on February 1, 1967 appealed further to the Bureau of Inspection of the Civil Service Commission. Twelve of these Investigators including named plaintiff Kavazanjian were upgraded to GS-12. The remaining thirteen appeals were denied including those of the other five named plaintiffs.

Contested Facts

Plaintiffs - The decisions in the cases of those plaintiffs whose appeals were denied were based on non-objective and inaccurate evaluations of plaintiffs work, which made no comparison with the applicable position Standard. Not all such plaintiffs were audited, and not all of their work was considered. In fact all plaintiffs were performing GS-12 level work as described under the standard for a majority of their time.

Defendants - The decision of the Bureau of Inspections was based on accurate and objective evaluations of the appellant Investigators' work and duties based on the record developed by the Regional Office, review of appellants' work load with supervisors and with the personnel of the Civil Service Commission Regional Office, consideration of the data and arguments presented by appellants, and a comparison of appellants' work with the applicable classification standard.

14. Plaintiff Kavazanjian never received any pay representing the differential between the GS-11 and GS-12 level for any work performed by him at the GS-12 level prior to his upgrading on June 9, 1967.

Contested Facts

Plaintiffs - Plaintiff Kavazanjian has been performing work at exactly the same level since he became an Investigator with INS in 1962. The grade level value of this work has always been at least GS-12.

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Defendants - Whether or not Kavazanjian was performing enough GS-12 level work to warrant a GS-12 grade was not determined until he filed his classification appeal with the Civil Service Commission in 1966. Until the evidence was collected and evaluated during that appeal the Civil Service Commission had no basis for a finding that Kavazanjian was entitled to a GS-12 grade classification.

15. In June, 1968, sixteen new classification appeals were filed, seeking promotion of investigators from GS-11 to GS-12. Five of the named appellants, Costas, Flasterstein, Greenfield, Martin, and Opolion were included in the Group. Two of the appeals (not involving the named plaintiffs) were withdrawn and, therefore, not acted on.

16. On November 8, 1968 the appeals of fourteen investigators (two had withdrawn) were denied by the Regional Office of the Civil Service Commission. These denials included the appeals of the plaintiffs identified in Paragraph 15. The United States Civil Service Commission did not audit the work of the 14 investigators audits which were done by personnel of the INS and the results were supplied to the Civil Service Commission. The fourteen investigators did not appeal the decision of the Regional Office.

Contested Facts

Plaintiffs - The 14 Investigators participated in the subject audits to the extent they could have been reasonably expected to do so. The audits which formed the basis for the decisions were arbitrary and non-objective, and did not properly compare the appellants work with the Position Classification Standard. In fact, plaintiffs were performing GS-12 work as described under the Standard.

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Defendants - The fourteen appellant Investigators refused to participate in the audits conducted by INS personnel. The audits showed that none of the fourteen Investigators were spending more than 25% of their time on GS-12 level work and the majority of them were found not to have any GS-12 level work. The Civil Service Commission in evaluating the appeals of the fourteen Investigators compared the evaluations of the appellants' work and duties to the applicable position classification Standard. The fourteen appellants were advised of the decisions of the Regional Office of the Civil Service Commission by letters which detailed each appellant's work load situation and gave rational, adequate and objective reasons for denying their appeal.

17. At all times relevant to this action the Civil Service Commission has applied the majority time rule in adjudicating classification appeals of INS General Investigators in the New York Region. In other cases and in other regions in certain circumstances the Civil Service Commission has approved the application of a "substantial time" rule in adjudicating appeals. "Substantial" time has been defined as to mean where 25% of an employee's time is spent on higher grade work.

Contested Facts

Plaintiffs - As a result of the discriminatory policy of not applying the "substantial time rule" in the New York District, New York Investigators who perform exactly the same work as the plaintiffs herein, (who are graded at GS-11) receive the salary and grade of GS-12. There is no material difference in the involved work situation which justified not applying the substantial time

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rule in New York while it is applied in other areas of the country.

Defendants - The Civil Service Commission has determined that the majority time rule is properly applicable to the classification appeals of INS Investigators in the New York Region.

18. Plaintiff Scalcione filed a separate classification appeal on February 27, 1968. This appeal was denied by the Regional Office of the Civil Service Commission on May 31, 1968. The decision of the Regional Office was affirmed by the Civil Service Commission.

Contested Facts

Plaintiffs - The Civil Service Commission wrongfully failed to consider and evaluate all of the higher grade level work which Mr. Scalcione had been working on between November, 1966 and February, 1968. The Commission's evaluation of said plaintiffs work was arbitrary and non-objective.

Defendants - The decision on Scalcione's appeal was based upon an audit of Scalcione's work load and upon evidence presented by Scalcione, the District Director of INS and the Associate Commissioner of INS for Management. The decision was based upon all the work assignments of Scalcione.

19. In May 1968, plaintiff D'Amico filed a second classification appeal. This appeal was denied by the Regional Office on the basis of an evaluation of D'Amico's work load, the conclusion of which was that the primary work assigned to him was at the GS-11 level.

Contested Facts

Plaintiffs - Prior to the desk audit which was conducted of Mr. D'Amico's work by the Civil Service Commission

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a large portion of his GS-12 level work was removed from him by INS for the sole purpose of defeating said plaintiff's classification appeal. In the course of adjudication of plaintiff D'Amico's appeal, the Civil Service Commission refused to consider any of the higher level work which had been removed from him.

Defendants - Work was assigned to and from D'Amico on the basis of proper sound principles of management, and was not removed from him for the sole purpose of defeating his classification appeal.

20. Edward Kavazanjian did not file a classification appeal with the Civil Service Commission prior to 1966.

Contested Facts

Plaintiffs - Plaintiff Kavazanjian's various submissions to INS beginning in December 1963 were tantamount to the filing of a formal classification appeal within INS, and were recognized and acknowledged as such within INS.

Defendants - Kavazanjian's submissions were not a proper appeal.

21. As a result of his classification appeal filed in 1966 Kavazanjian was certified by the Civil Service Commission on June 9, 1967 at the grade level of GS-12.

22. In the course of the classification appeals of the plaintiffs Benemio, D'Amico, Farrell, Bertele and Flasterstein commenced in 1966 (see ¶9-11) the Civil Service Commission stated in its decision that these plaintiffs were not spending a majority of time on GS-12 level work.

Contested Facts

Plaintiffs - In the course of the classification appeal in 1966 of plaintiffs Benemio, D'Amico, Farrell, Bertele and Flasterstein the evaluations and evidence did

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not establish that said plaintiffs were not spending a majority of time on GS-12 level work. In fact, such plaintiffs were spending a majority of their time on GS-12 level work, and the evidence so demonstrated.

With respect to plaintiffs Benemio, D'Amico, Farrell and Flasterstein, subsequent evaluations of their work load and duties, either by INS management personnel, or through new classification appeals, did not prove or confirm the conclusion that such plaintiffs did not apend a majority of their time on GS-12 level work. In fact, they spent a majority of their time on grade 12 work, and the evidence so demonstrated.

Defendants - The decision of the Civil Service Commission was based on findings supported by the evidence compiled by and presented to the Commission. This evidence established that plaintiffs Benemio, Bertele, D'Amico, Farrell and Flasterstein did not spend a majority of their time on GS-12 level work.

With respect to plaintiffs Benemio, D'Amico, Farrell and Flasterstein, subsequent evaluations of their work load and duties, either by INS management personnel or through new classification appeals, confirmed the fact that they did not spend a majority of their time on GS-12 level work.

23. In the course of the classification appeal of the plaintiffs Martin, Opolion, Costas, Greenfield and Flasterstein commenced in 1968 (see ¶12-13) the Civil Service Commission, by its Regional Office, stated in its decision that these plaintiffs were not spending a majority of time on GS-12 level work.

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Contested Facts

Plaintiffs - In the course of their classification appeal in 1968, the audits and evaluations of the work load of plaintiffs Martin, Opolion, Costas, Greenfield and Flasterstein did not establish that all of them were spending less than a majority of their time on GS-12 level work. They were, in fact, spending a majority of their time on GS-12 level work, and the evidence so demonstrated.

Defendants - In the course of their classification appeal in 1968, the audits and evaluations of the work load of plaintiffs Martin, Opolion, Costas, Greenfield and Flasterstein established that all of them were spending less than a majority of their time on GS-12 level work.

24. Contested Facts

Plaintiffs - An evaluation of the evidence in the classification appeal of plaintiff Scalcione did not establish that he was not spending a majority of his time on GS-12 level work. It was not established that if Scalcione was involved in any GS-12 level work that it was not of a regular and recurring nature. Scalcione was, in fact, involved in Grade 12 level work for a majority of his time on a regular and recurring basis and the evidence so established.

Defendants - An evaluation of the evidence in the classification appeal of plaintiff Scalcione established that he was not spending a majority of his time on GS-12 level work. It was also established that if Scalcione was involved in any GS-12 level work it was not of a regular and recurring nature

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25. Contested Facts

Plaintiffs - An evaluation of the evidence in the classification appeal of plaintiff D'Amico filed in 1968 did not establish that he was not spending a majority of his time on GS-12 level work. He was in fact spending a majority of his time on Grade 12 level work, and the evidence so demonstrated .

Defendants - An evaluation of the evidence in the classification appeal of plaintiff D'Amico filed in 1968 established that he was not spending a majority of his time on GS-12 level work.

26. Contested Facts

Plaintiffs - GS-12 level work was regularly assigned to GS-11 Investigators so that the Immigration and Naturalization Service could benefit from the high level of competency and experience of the Investigators, and not for training purposes. Work was not reassigned when an investigation developed in degree of complexity to a higher grade level than GS-11, except for the express purpose of defeating classification appeals.

Defendants - GS-12 level work was occasionally assigned to GS-11 Investigators for training purposes. Work was reassigned from GS-11 Investigators to GS-12 Investigators on a regular basis when an investigation developed in degree of complexity to a higher grade level than GS-11. Investigators in the New York Region of INS were aware of this policy at all times.

27. Contested Facts

Plaintiffs - Same as 26.

Defendants - INS did not remove GS-12 level work from GS-11 Investigators for the sole purpose of defeating classification appeals but for the purpose of assigning work to the appropriate level investigator in accordance with policy.

28. The Civil Service Commission and INS have applied the majority of time rule to all Investigator classification appeals from the New York Region of INS.

Contested Facts

Plaintiffs - The Civil Service Commission and INS have employed the majority time rule in New York, not because they have determined that it is the proper rule, but in order to keep grade levels down, and in order to stay within INS budgetary limitations.

Defendants - The Civil Service Commission and INS have determined that the majority of time rule is the appropriate rule for the New York Region.

30. Contested Facts

Plaintiffs - Plaintiffs classification appeals were not given every appropriate evaluation and review by INS and the Civil Service Commission.

Defendants - Plaintiffs' classification appeals were given every appropriate evaluation and review by INS and the Civil Service Commission.

31. Contested Facts

Plaintiffs - Evaluations of the work load of each appellant not upgraded were made in an unfair result oriented manner, and not in accordance with the Position Classification Standard.

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Defendants - Evaluations of the work load of each appellant Investigator were made objectively and in accordance with appropriate Standards by INS and the Civil Service Commission.

32. Contested Facts

Plaintiffs - Defendants Exhibits A, B, C, D, E and F, filed with their motion for Summary Judgment are authentic records of the consideration and evaluation of plaintiffs classification appeals, but are neither complete, or entirely accurate.

Defendants - Defendants Exhibits A, B, C, D, E, and F filed with their motion for Summary Judgment are authentic and accurate records concerning the consideration and evaluation of plaintiffs classification appeals to the Civil Service Commission.

New York, New York
May 27, 1975

Elmer Fried, Mark L. Mollot

ELMER FRIED
Attorney for Plaintiffs

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for Defendants

By: Taggart D. Adams

TAGGART D. ADAMS
Assistant United States Attorney

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDWARD KAVAZANJIAN, et al.,

Plaintiffs,

- v -

U.S. IMMIGRATION AND NATURALIZATION SERVICE, et al.,

Defendants.

69C3074 (MP)

STIPULATION

IT IS HEREBY STIPULATED and agreed by and between the parties to the above entitled action, that subject to the approval of the Court, the following documents which have been pre-marked shall be admitted into evidence:

Plaintiffs' Exhibits

1. Letter from Alvin W. Norcross, Acting Director, Bureau of Inspections, Civil Service Commission to Kenneth J. Stallo, Director of Personnel, Department of Justice, dated July 9, 1968.

2. Letter from John W. Macy, Chairman, Civil Service Commission to Ramsey Clark, Attorney General of the United States.

3. Civil Service Commission Evaluation of Personnel Management of the Immigration & Naturalization Service, January 1968.

4. Letter from E.A. Loughran, Associate Commissioner Management, Immigration & Naturalization Service to Edward Kavazanjian, dated March 20, 1964.

5. Report by James F. Googe, Director, New York Region, Civil Service Commission, October 31, 1963.

6. Letter from E.A. Loughran, Associate Commissioner, Management, Immigration & Naturalization Service to District Director, New York Region, Civil Service Commission, dated April 6, 1967.

7. Letter from L.H. Baer, Regional Director, New York Region, Civil Service Commission to E.A. Loughran, Associate Commissioner, Management, Immigration & Naturalization Service, dated October 18, 1967.

Letter from L.H. Baer, Regional Director, New York Region, Civil Service Commission to Jerome Axelrod, dated October 18, 1967.

8. Letter from L.H. Baer, Regional Director, New York Region, Civil Service Commission to Joseph Sena, dated February 1, 1967.

Letter from John D. Glasheen, Chief Classification Appeals Office, Civil Service Commission to Joseph Sena, dated June 9, 1967.

Letter from E.A. Loughran, Associate Commissioner, Management, Immigration & Naturalization Service to Joseph Sena, dated August 25, 1967.

Letter from P.A. Esperdy, District Director, New York District, Immigration & Naturalization Service to Joseph Sena, dated January 19, 1968.

Notification of Personnel Action, regarding Joseph Sena, April 2, 1968.

9. Letter from John E. Sauerhoff, Jr., Chief, Evaluation Branch, New York Region, Civil Service Commission to Peter Scalcione, dated May 31, 1968.

10. Memos to all District Directors, Southwest Region from M.F. Fargione, Deputy Regional Commissioner, Southwest Region (four memos).

11. Memo from E.A. Loughran, Associate Commissioner, Management, Immigration & Naturalization Service, to all Associate Regional Commissioners, Management, dated August 7, 1968.

12. Memo to District Directors from H.E. Hulsing, Associate Deputy Regional Commissioner, Management, St. Paul, Minn., dated August 20, 1968.

13. Letter from Erwin Drabinski to John D. Glasheen, Chief, Classification Appeals Office, Civil Service Commission, dated February 12, 1968.

14. Letter from John D. Glasheen, Chief Classification Appeals Office, Civil Service Commission to Edward Kavazanjian, dated February 1968.

15. Letter from Max Weinman to L.H. Baer, Regional Director, Civil Service Commission, November 13, 1967 (two letters).

16. Letter from L.H. Baer, New York Regional Director, Civil Service Commission to Joseph Farrell, dated February 1, 1967.

17. Letter from L.H. Baer, New York Regional Director, Civil Service Commission to Denton Kerns, dated February 1, 1967.

18. Letter from L.H. Baer, New York Regional Director, Civil Service Commission to Max Gottlieb, dated February 1, 1967.

19. Letter from L.H. Baer, New York Regional Director, Civil Service Commission to Sidney Baron, dated November 8, 1968.

20. Letter from P.A. Esperdy, New York District Director, Immigration & Naturalization Service to Assistant Regional Commissioner, dated February 3, 1969.

21. Letter from John E. Sauerhoff, Jr., Chief, Evaluation Branch, New York Region, Civil Service Commission to Joseph Farrell, dated March 11, 1969.

22. Letter from Kenneth J. Stallo, Director of Personnel, Department of Justice, to Gilbert A. Schulkind, Director, Bureau of Inspections, Civil Service Commission, dated April 10, 1968.

23. Letter from Alex Flasterstein to John D. Glasheen, Chief, Classification Appeals Office, Civil Service Commission, dated July 17, 1967.

24. Letter from Frank Benemio to John D. Glasheen, Chief, Classification Appeals Office, Civil Service Commission, dated March 23, 1967.

25. Letter from Elmer Fried to Civil Service Commission on behalf of Edward Bertele, dated May 29, 1967.

26. Letter from John D. Glasheen, Chief, Classification Appeals Office, Civil Service Commission to Erwin Dabrinski, dated May 29, 1968.

Defendants' Exhibits

A. Pages 1-101: Certified records of the Civil Service Commission.

B. Pages 1-168: Certified records of the Civil Service Commission

C. Pages 1-31: Certified records of the Civil Service Commission.

D. Pages 1-74: Certified records of the Civil Service Commission.

E. Pages 1-52: Certified records of the Civil Service Commission.

F. Certified records of the Civil Service Commission.

G. Civil Service Commission decision letter to Alexander Flasterstein, dated November 8, 1968.

H. Position Classification Standards - Mixed grade positions under the Classification Act of 1949.

I: Position Classification Standard for General Investigators, GS-1810 Series.

J. Memorandum, dated July 30, 1968 from Stallo to Loughran.

K. No Exhibit K.

L. Memorandum, dated March 31, 1967 from Bagley, Regional Commissioner to Central Office, INS.

M. Chart, undated, showing results of 1967 INS survey of GS-12 Investigator positions.

N. (1) - N (13) INS Change Orders upgrading General Investigators.

O. Letter, dated October 31, 1963 from Googe to Regional Commissioner INS enclosing Googe letter of same date to District Director Esperdy.

P. Letter, dated February 15, 1967 from Schulkind to Loughran.

Q. Letter, dated February 17, 1967 from Loughran to Schulkind.

R. Memorandum, dated April 27, 1967, from Benedict Ferro to File.

S. Memorandum, dated May 31, 1967 from James Greene to Regional Commissioners.

T. Memorandum, dated July 6, 1968 from Pyle, Burrows, Burchard, Ferro (eight page enclosure).

U. Memorandum, dated December 21, 1966 from Friesen to Loughran with enclosure.

V. Memorandum, dated December 15, 1967 from A.A. Poulin to District Directors (with attachment from Civil Service Commission).

. Letter, dated July 27, 1967 from Jack I. Lazarus to Raymond Farrell.

X. Memorandum, dated November 8, 1967 from Esperdy to Bertele.

Y. Memorandum, dated February 21, 1968 from Esperdy to D'Amico.

Z. Memorandum, dated February 21, 1968 from Esperdy to Burke.

AA. Memorandum, dated November 8, 1967 from Esperdy to Flasterstein.

BB. Memorandum, dated November 8, 1967 from Esperdy to Benemio.

CC. Memorandum, dated February 21, 1968 from Esperdy to ~~Scalcione~~ Farrell.

DD. Memorandum, dated July 24, 1968 from Loughran to Associate Deputy Regional Commissioner Roney.

EE. Memorandum, dated August 23, 1968 from Loughran to Roney.

FF. Memorandum, dated November 6, 1968 from Esperdy to Associate Deputy Regional Commissioner.

GG. Memorandum, dated November 21, 1968 from Roney to Associate Commissioner, Management, INS.

HH. Letter, dated December 7, 1968 from Kavazanjian to Loughran.

II. Letter, dated February 18, 1969 from Loughran to Kavazanjian.

JJ. Letter, dated March 19, 1969 from Loughran to Schulkind.

KK. Letter, dated April 14, 1969 from Schulkind to Loughran.

FRIED, FRAGOMEN & DEL REY, P.C.
Attorneys for Plaintiffs
515 Madison Avenue
New York, New York 10022

MARTIN L. ROTHSTEIN

PAUL J. CURRAN
United States Attorney
Southern District of New York
Attorney for Defendants
1 St. Andrew's Plaza
New York, New York 10007

TAGGART D. ADAMS
Assistant United States Attorney

Dated: New York, N.Y.
June , 1975.

SO ORDERED:

DATED: _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

EDWARD KAVAZANJIAN, et al., :

Plaintiffs, :

v. :

69 Civ. 3074 (MP)

U. S. IMMIGRATION AND NATURALIZATION SERVICE, et al., :

Defendants. :

----------x

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OPINION

APPEARANCES:

FRED, FRAGOMEN & DEL REY
Attorneys for Plaintiffs
515 Madison Avenue
New York, N.Y. 10022
By: Martin L. Rothstein, Esq.

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
AUG 18 3 37 PM '75

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
1 St. Andrews Plaza
New York, N.Y. 10007
By: Taggart Adams, Assistant U.S. Attorney

MICROFILM
AUG 19 1975

MILTON POLLACK, District Judge.

MILTON POLLACK, District Judge.

Plaintiffs in this suit seek declaratory and injunctive relief and back pay in connection with their assertions that they were and are improperly denied classification as GS (General Schedule)-12 investigators of the United States Immigration and Naturalization Service (INS). For the reasons stated infra, the relief requested must be denied and the complaint dismissed.

This action was commenced on July 15, 1969, by inter alia eleven named individual plaintiffs, ten of whom were at this time classified as GS-11 investigators for the New York Office of INS. The eleventh individual plaintiff, Edward Kavazanjian, had been a GS-11 investigator in the New York office until June 1967 when he was raised to class GS-12 (his quest herein is therefore for back pay). The eleven named plaintiffs represent other investigators similarly situated pursuant to a class action order entered on consent of the parties on August 18, 1971. Also plaintiffs in this action are Immigration and Naturalization Service Local No. 1917, American Federation of Government Employees, AFL-CIO, and the National Council of Immigration and Naturalization Locals.

Named as defendants in this action are the INS, the United States Civil Service Commission (CSC), the United States, and named members of the Civil Service Commission.

This Court has jurisdiction to review the actions of the INS and the CSC as they affected these plaintiffs pursuant to 5 U.S.C. §702, which states that.

> A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.

The Court's review is, however, a limited one. Plaintiffs have the burden of showing that the actions of the INS and/or the CSC were, in the words of 5 U.S.C. §706(2)(a) "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." Cf. Almeeda v. United States, 453 F.2d 1397 (Ct. Cl. 1972); Albert v. United States, 437 F.2d 976, 979 (Ct. Cl. 1971); Leopold United States Civil Service Commission, No. 71 C. 292 (E.D.N.Y. Mar. 29, 1974); Brech v. United States Immigration and Naturalization Service, 362 F. Supp. 914 (S.D. N.Y. 1973). It is to be noted, in connection with the

requested review of the CSC's decisions, that: "The function of a reviewing court in a civil service case such as this is not to 'undertake to pass on qualifications of an employee for any given post' ... nor to determine the proper functions and responsibilities of a particular Government position". (citations omitted) Bookman v. United States, 453 F.2d 1263, 1267 (Ct. Cl. 1972).

Plaintiffs' demands for back pay, which each has limited to $10,000, rely for jurisdiction on 28 U.S.C. §1346(a)(2), which authorizes suits against the United States in federal district courts for amounts not exceeding $10,000; and plaintiffs' demands for peremptory relief have been posited under 28 U.S.C. §1361, which authorizes mandamus of federal officials and agencies.

The individual plaintiffs in this suit are, or were at the times complained of, investigators for INS. The INS is charged with overseeing problems involving immigration into this country, naturalization of citizens, and deportation of aliens. Depending on their

specialties, INS investigators are denominated as either criminal investigators or general investigators and have responsibility to uncover frauds against the immigration laws, and to apprehend, arrest, and institute denaturalization and deportation proceedings where appropriate against aliens found to have violated federal laws. Some of the investigators additionally have liaison duties with other law enforcement agencies.

The investigators, as federal employees serve in positions which are classified under the General Schedule of the Government Organization and Employees Act, Title 5, United States Code. According to that Schedule, jobs are slated at different grade levels, which determine the incumbent's salary and his or her fringe benefits. Non-supervisory investigatory positions at INS may be classified at GS-9, GS-11, and GS-12. The standards for determining whether an investigator's job fell within class 9, 11, or 12 during the

period relevant to this suit are set out in a document entitled "Supplement to the Position Classification Standards for the General Investigating Series, GS-1810-0, for Positions in the Immigration and Naturalization Service, Department of Justice", issued by the CSC in October 1959.

It is the responsibility of each agency to place each position under its jurisdiction in the appropriate class and grade in conformance with standards published by the CSC. 5 U.S.C. §5107. The INS for some years after 1959 did not classify any of its non-supervisory positions as GS-12, concluding that what GS-12 level work existed in its offices would be handled by supervisors, who were classified at GS-12 and above. As will be explained in more detail infra, plaintiffs and their fellow investigators in the New York INS office were instrumental in the change of this INS policy in 1967.

The CSC has the responsibility to oversee the classification of all government employees subject to such classification. It is given authority to ascertain the facts concerning government positions, to decide whether they are in their appropriate grade and class, and to change a position from one grade or class to another when

the facts warrant. 5 U.S.C. §5112(a)(1, 3 & 4). Upon request of an affected employee, the CSC must exercise its authority. 5 U.S.C. §5112(b). The process by which an employee requests the CSC to consider the propriety of his position's grade has been referred to by the parties as a classification appeal. This "appeal" is not, however, an appeal from any specific decision of the agency not to reclassify a job, and an employee need not petition his or her own agency for reclassification before invoking CSC review.

Plaintiffs allege that some of the investigators attempted to persuade the INS to upgrade their positions as early as December 1963 and that the INS not only refused to act upon these requests for reclassification in good faith but, by misleading the investigators as to its intentions, also prevented them from filing appeals with the CSC before 1966. Plaintiffs' allegations of bad faith and evil motive on the part of the INS in responding to these early inquiries are simply not borne out by the credible evidence presented to this Court.

In 1966, fifty-two investigators in the New York INS office whose positions were classified as GS-11 did file classification appeals with the CSC. This simultaneous action was stated by the CSC official involved to be the largest mass appeal filed with the CSC up to that date. The appeal was organized by plaintiff Kavazanjian in connection with the union to which he and other investigators belonged. Named plaintiffs Kavazanjian, Bertele, Flasterstein, D'Amico, and Farrell were among those filing appeals.

Mr. Samuel Friedman was at that time a personnel management specialist with the CSC whose role it was to adjudicate classification appeals submitted by Federal employees in the New York region. He interviewed Kavazanjian and one Jack Lazurus, another investigator-appellant who was president of the plaintiff's union local, at some length. There is dispute about the amount of time he spent with some of the other appellants in discussing their casework. All of the appealing investigators were audited in 1966. (Mr. Friedman's assistants, personnel management specialists, talked to a few of the appealing investigators.) The audits were reasonably sufficient under all the facts and circumstances and done in good faith with a knowledgeable and perceptive understanding of the matters involved.

It developed from his survey of the work performed by the appealing investigators, as would indeed appear inevitable from the breadth of the applicable standards, that many of the appellants were doing work that would be classified as GS-12 part of the time and work that was GS-11 or less part of their time. The rule of the CSC in such cases is that an employee is to be upgraded if he or she is doing the higher grade work a majority of the time. Position-Classification Standards for Positions Subject to the Classification Act of 1949, as Amended, U.S. Civil Service Commission, Bureau of Programs and Standards, Standards Division (1967) at 25-26. There is, however, an exception to this rule under which, in certain circumstances, an employee may be upgraded if he engages in the higher grade work for a "substantial" portion of his time. Id. at 26. Whether the exception should have been applied to these appeals is one of the central issues of this suit and will be discussed infra.

The CSC, through Mr. Friedman, utilized the majority rule of the time in deciding the 1966 appeals and has continued to use it in considering appeals by employees in the New York INS office. This standard was appropriate in the circumstances and fairly and appropriately applied.

On February 1, 1967, the New York Regional Office of the CSC ruled on the appeals of the INS investigators. Eleven were upgraded to GS-12, one was downgraded to GS-9, and thirty-six were found properly classified as GS-11. (Four had withdrawn their appeals before decision.) Six of the named plaintiffs, including Mr. Kavazanjian, were involved in the appeal; they were among those whose grades were not changed. These decisions bear no indication of disregard of the work evaluated or of the Position Classification Standard nor have they been credibly established to be deficient in fairness either in consideration or result.

In March 1967, twenty-five investigators, including the six named plaintiffs referred to above, appealed the denial of their classification appeals to the CSC's Bureau of Inspections in Washington, D.C. There was considerable testimony at trial concerning attempts by individual investigators to see the files which contained the material upon which the decisions of the original classification appeals were based. Some investigators visited the New York office of the CSC and were shown files which several testified were either empty or nearly so. The apparent reason for this phenomenon is that the important papers in the files were in transit, or located in Washington for consideration of the second level appeals

before the time the appellants sought to view them in New York. Plaintiffs' attempt to ascribe bad faith or evil motive on the part of the CSC to these incidents has not been convincing. Nor does the credible evidence establish by a fair preponderance that evaluations were not made or were faulty or not consistent with the applicable standards.

The appeal to the Bureau of Inspections necessitated some further interviews with appellants, apparently conducted by a Mr. Van Tassel. There was testimony that Mr. Van Tassel conferred with Mr. Friedman as to the meaning of the latter's notes in some instances, action which this Court does not deem to have been improper, suspect or prejudicial, in the circumstances. The Bureau of Inspections upgraded twelve investigators, including Mr. Kavazanjian, to GS-12. It denied the remaining thirteen appeals, including those of the other five named plaintiffs involved.

In 1967, when the INS was notified that several of the investigators in its New York office had been reclassified in GS-12, it initiated a nationwide survey of its offices to determine where GS-12 work was being done and whether other investigators should be reclassified as GS-12. Mr. Benedict Ferro, then Chief of Classification of INS, testified that his classifiers, in determining who should be reclassified as GS-12, used the same criteria as the CSC, "However, we didn't always come up with the same decision," he said.

Plaintiffs seek to have this Court draw an inference of arbitrariness from the fact that the CSC and INS, using the same standards, could disagree on who should be classified in GS-12. However, the applicable standards are not, and probably could not be so precise that two honest human beings could not disagree in evaluating any given task. The inference suggested by plaintiffs is not warranted by the evidence and consequently will not be drawn by the Court.

The INS survey resulted in the reclassification of some forty-five investigators across the nation. The survey also found that in some offices, of which the one in Los Angeles was cited as an example, there was a great deal of GS-12 work being done, but few investigators were spending the majority of their time on such work. In these cases, the INS concluded to establish new GS-12 positions to handle the higher grade work. Since many new positions were created in various offices, the INS sought to avoid the disruption to its affairs that would have resulted from the use of its normal method of filling new positions. Use of that method would likely have

involved the transfer of investigators from office to office as those highest on merit lists moved into the new positions. Instead, the INS petitioned the CSC for and received from it permission to promote those investigators in each affected office who had been doing the greatest percentage of GS-12 work previously. After the promotions, the higher grade work in the office was to be channeled to these investigators so that the majority of their time would be spent on such work.

Plaintiffs see arbitrariness on the part of the INS, and of the CSC in approving this action, in promoting some investigators who did less than a majority of GS-12 work in some offices while failing to reclassify investigators in the New York office who were doing a similar percentage of the higher grade work. Seen from the perspective of the agencies, however, this action was reasonable, and arbitrariness or capriciousness in the disparity of treatment complained of is not factual or a justifiable inference from the evidence.

In their post-trial brief, plaintiffs charge that after the 1966 classification appeals the INS promoted

many investigators in the New York office who were performing GS-12 level work less than thirty percent of their time while passing over investigators who were performing GS-12 level work for at least forty percent of their time. Plaintiffs have apparently taken the thirty and forty percent figures from the CSC evaluations of the work of investigators made by the CSC at the time of the 1966 appeals. By ignoring the later evaluations made by INS on which INS actually made the promotions, the plaintiffs are able to make their unfounded argument that an investigator doing GS-12 work only thirty percent of his time was upgraded to GS-12 while one doing such work forty percent of his time failed of promotion. Plaintiffs thus seek to spell out arbitrariness on the part of the INS. Since the later of the evaluations, that of the INS, was the guide on which the INS acted it may properly be assumed that the amount of time the investigators in question spent on higher level tasks varied from the time of the CSC audit to the time of the INS audit and, at all events, as noted supra, the classification standards are subjective to the extent that the INS could have in good faith come to different conclusions

about the grade level of an investigator's work than those reached, also in good faith, by the CSC. The Court finds no arbitrariness proven in the circumstances of which plaintiffs complain.

In February 1968, named plaintiff Scalcione filed a separate classification appeal, which was denied by the regional office of the CSC on May 31, 1968. This result could be fairly and reasonably reached on the facts and circumstances involved. The regional office's decision

was subsequently affirmed by the CSC. The evaluation by the CSC could reasonably be made on the evidence and there is no sufficient basis to characterize its evaluations as uninformed or arbitrary.

In May 1968, named plaintiff D'Amico filed a second classification appeal (he had been involved in the 1966 group). D'Amico, as a witness at trial, testified that one large case, which he considered to have involved work of GS-12 calibre, was taken away from his subsequent to his filing of his appeal. D'Amico represents a sub-class of plaintiffs who allege that higher grade work was taken away from them by the INS at the time of their classification appeals to prevent their being upgraded. If the CSC did not consider the work D'Amico, or others similarly situated, were doing at the time of the appeal, it is arguable that the CSC would have violated its responsibility under 5 U.S.C. §5112(a)(1) and (b) to, upon the request of an employee, "ascertain currently the facts as to the duties, responsibilities, and qualification requirements of a position". (emphasis supplied) See Adams et al v. U.S. Civil Service Commission et al., Civ. Action No. 359-72 (D.D.C.), order of remand to the CSC, filed Nov. 9, 1973.

However, it has not been proven that the CSC did not consider the work that D'Amico, and others similarly situated, were doing at the time of appeal. There was testimony by Mr. Friedman that there was no CSC policy not to consider work taken away from an appellant before his audit but after his appeal. Mr. Friedman indicated that, while CSC policy was flexible, it was his practice to consider work that an appellant had done within a month or two of the time of the audit of that appellant.

Plaintiffs have also attempted to impute to the INS a motive of denying D'Amico his due in the removal of GS-12 work from him subsequent to his filing of a classification appeal. The removal, however, is consistent with management's duty to assign work which has become more difficult to investigators who are classified as GS-12. Absent any other evidence to support plaintiffs' contention, the Court will not infer an improper motive from the mere fact of the reassignment.

In June 1968, sixteen new classification appeals were filed by investigators seeking reclassification of their positions from GS-11 to GS-12. Five of the named

plaintiffs, Costas, Flasterstein, Greenfield, Martin, and Opolion, were within this group. On November 8, 1968, the appeals of fourteen of the sixteen investigators (two appeals having been withdrawn) were denied by the regional office of CSC. These denials were not appealed to the Bureau of Inspections.

There was some confusion about the auditing process involved in the adjudication of the classification appeals filed in June 1968. The INS, in order to prepare its input into the classification appeal process, attempted to audit the work of appealing investigators. The investigators, or some of them, apparently viewing the INS as their adversary in the classification appeals, refused to speak to the INS classifiers, though they allowed them to review the cases on which the appellants had been working.

The INS classifiers did not recommend reclassification of any of the investigators appealing, but they did find that there was more GS-12 work being done in the New York office than had been realized. Three new GS-12 positions were created to handle this work. The INS did not fill the new positions by promoting the

investigators spending the highest percentage of their time on GS-12 work, as it had done in 1967 when new positions were created at many other offices across the country. It instead utilized its normal promotion procedures. Testimony by Mr. Ferro, the INS chief classifier at the time, indicated that the normal promotion process was used in the New York office in 1968 because there was no reason not to do so. The potential for disruption that was present in the nationwide creation of new positions in 1967 was not a factor in the creation of three new positions in the New York office in 1968.

The named plaintiffs, and some of their fellow investigators who appeared as witnesses at trial, seem genuinely convinced that their employer, the INS, has been guilty of consciously determining, and conspiring with the CSC, to deprive them of their right

to have their jobs reclassified as GS-12.[1/] Whatever this may say about the quality of labor-management relations in the New York office of the INS, it is not this Court's finding that the plaintiffs' view of the affairs described above is correct.

It is important to recognize at the outset that the distinctions between GS-11 and GS-12 work are not clear and are subject to variant interpretations by reasonable men. For that reason, and on the testimony and documentary evidence before it, this Court finds that the INS's original determination that the GS-12 work in its offices was minimal and that what there was of it

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1/ A document that lends support to the plaintiff's belief is an undated letter from John W. Macy, then Chairman of the CSC, to the United States Attorney General conveying a CSC evaluation of personnel management activities in the INS. (The evaluation, a fifty page document, is dated January 1968). In the letter, Mr. Macy noted that in the INS: "The position classification program has been used to keep grades down for employees without regard to the actual level of work being performed." This Court has considered this letter, and the accompanying report, together with other documentary and testimonial evidence in reaching its own conclusion.

was done by supervisors was not in bad faith and was neither arbitrary nor capricious, though, as subsequent events point out, it may have been erroneous.

Plaintiffs correctly identified their administrative remedy when they filed classification appeals with the CSC. It appears, however, that they expected a forum for their grievances somewhat different from that which they invoked. The statute, 5 U.S.C. §5112, requires that the CSC ascertain currently the facts, decide whether the position in question is in its appropriate class and grade, and change the class or grade when the facts warrant. There is no requirement that an adversary hearing be held; nor is there a requirement that any particular type of audit take place or that appellants be interviewed for a given length of time. Cf. 5 C.F.R. ¶511.607. The CSC has latitude as to the manner in which it will perform its statutory function, and this Court finds that it did not act

arbitrarily[2/] or capriciously or in abuse of its discretion in processing the appeals involved herein.[3/]

Some plaintiffs, such as Mr. Kavazanjian, who were reclassified by the CSC, seek back pay for the period of time during which they assert they were doing GS-12 work before the time in which they were reclassified. The demand is supported, in the case of Mr. Kavazanjian, by his testimony that he was doing the same work before

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2/ Plaintiffs point to the fact that the defendant CSC has not been able to find the notes of the audits made in 1966 and 1968 in most cases and to the poor organization of the administrative records prepared by the CSC for submission to the Court, suggesting that both illustrate arbitrariness in the CSC classification appeal procedures. These factors have been considered by the Court, but are not found to have much probative weight. These after-the-fact lapses in administrative efficiency, though inconvenient for the fact-finder, do not amount to arbitrariness in the processing of the actual appeals.

3/ It is worthy of note that 23 of the 48 investigators in the New York INS office who submitted classification appeals for decision in 1966 had their positions upgraded by either the CSC's regional office or its Bureau of Inspections after further appeal.

reclassification as he was doing at the time his position was upgraded.

The statutory remedy for employees who believe that they are doing work that entitles them to reclassification of their positions is the process -- appeals to the CSC pursuant to 5 U.S.C. §5112 -- described above. The CSC may reclassify a position, but there is no provision for retroactive reclassification and award of back pay.[4/] This being so, this Court can on no theory grant plaintiffs the relief they request.

MAJORITY OF TIME OR SUBSTANTIAL TIME

As noted above, an important point of contention in this case, deserving special attention herein, is the question of the propriety of the application of the

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4/ Waiver of sovereign immunity by the United States and its agencies would be necessary to allow any award of back pay in this type of situation, and that waiver would need to be explicit. Cf. Brown v. General Services Administration, 507 F.2d 1300, 1307 (2d Cir. 1974), cert granted 43 U.S.L.W. 3625 (May 27, 1975). No such waiver is apparent here.

so-called majority of time rule[5/] by the CSC and the INS in considering requests for reclassification in the

5/ The following excerpt from Position-Classification Standards for Positions Subject to the Classification Act of 1949, as Amended, U.S. Civil Service Commission, Bureau of Programs and Standards, Standards Division (1967) at 25-26 is the source of this rule and its exception:

> Classifying Mixed-Grade Positions Under the Classification Act of 1959
>
> Only general guides can be offered because of the fact that mixed-grade positions occur under so many different circumstances.
>
> In classifying the great majority of positions the principal duties and responsibilities will govern: i.e., those that take up at least a majority of the employee's working time. No question of mixed grades need be raised where the principal duties are also paramount or preponderant from the standpoint of influence or weight in the job evaluation and grade classification.
>
> Sometimes, however, a mixed-grade position may involve a set of duties and responsibilities or a task which, although enhancing the relative value of the job, and paramount in influence or weight, does not consume a majority of the employee's time. In that event, the position may be classified on that basis.
>
> Since in such instances the basis for the grade is something less than a majority of the employee's working time, the following conditions should be observed:
>
> 1. The duties and responsibilities serving as the basis for the grade decision are paramount in influence or weight, occupy a substantial portion of the employee's working time, are a regular or recurring part of the job, and are not of an emergency, infrequent, incidental, or temporary nature.
> 2. They are so different from the other duties and responsibilities as to require materially higher qualifications, which are, or will be, reflected in the qualification standards used in recruiting, testing, and selection. (Emphasis added).

New York office. In some areas of the country, an exception to the majority of time rule has been made in upgrading positions where substantial time has been spent on work of higher grade. This exception is made in confined circumstances as explained below. Plaintiffs contend that the use of the majority of time rule in New York illustrates arbitrariness on the part of INS and of the CSC, which oversees the INS classification program. The use of the substantial time exception elsewhere but not in New York, plaintiffs say, is also a violation of the purpose of the Civil Service system, as set out in 5 U.S.C. §5101(1)(A), that the principle of equal pay for substantially equal work be followed.

As explained in a letter by Mr. Alvin Norcross, Acting Director of the CSC Bureau of Inspections, to Mr. Kenneth Stallo, Director of Personnel, Department of of Justice, dated July 9, 1969, in some offices, of which El Paso was an example in 1969, INS investigators are assigned a geographical region in which they must handle all the work that arises. In that situation, the higher grade work cannot be efficiently distributed to

employees in higher grade positions. In such cases, where the higher grade work is paramount in influence, takes up a substantial amount of the employee's time, and requires materially higher qualifications than the lower grade work, the INS or the CSC reclassifies the position upward to the higher grade under the exception to the majority of time rule. This is done so that the agency can be assured of attracting and holding men who are capable of handling the higher grade work.

The CSC is cautious about applying the substantial time exception, in part because of the danger that maldistribution of the workload in an office might result in a large number of people doing the higher grade work a substantial portion of their time where proper management would have a few people in higher grade positions doing the higher grade work that came in. The proper solution in such offices where much higher grade work existed would be the creation of new higher grade positions, as the INS did in 1967 across the country and again in 1968 in New York, and assignment of the higher grade work to the occupants of those positions.

This policy seems to this Court to make sense, and at the least it is neither arbitrary nor unreasonable. This Court finds on the evidence presented to it that the use of the majority of time rule in adjudicating classification appeals in the New York INS office is not arbitrary, capricious, nor an abuse of discretion on the part of INS or the CSC.

SUMMARY OF CONCLUSIONS

The conclusions on the issues presented in this case can be summarized succinctly as follows:

On the basis of the evidence adduced and circumstances shown and the resolution of issues of credibility reflected in the Court's factual determinations, the plaintiffs have failed to show that defendant agencies acted, in connection with the matters here in dispute, arbitrarily, capriciously, in abuse of their discretion, or otherwise not in accordance with law. The determinations reached by such agencies respectively were based on a consideration of the relevant factors and there has been no demonstration by plaintiffs of any clear error of judgment in respect to such determinations. Citizens to

Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 416 (1971).

Accordingly, judgment is granted to the defendants and the complaint is dismissed, with costs.

The foregoing constitutes the Court's findings of fact and conclusions of law as required by Rule 52(a), Fed. R. Civ. P.

SO ORDERED.

August 18, 1975

Milton Pollack
U. S. District Judge

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDWARD KAVAZANJIAN, FRANK BENEMIO, EDWARD BERTELE, FRANK COSTAS, JOSEPH D'AMICO, JOSEPH FARRELL, ALEX FLASTERSTEIN, MARTIN GREENFIELD, JOHN MARTIN, ARTHUR OPPOLIAN, PETE SCALCIONE, AND AS A CLASS, ALL INVESTIGATORS OF THE U. S. IMMIGRATION AND NATURALIZATION SERVICE, IMMIGRATION AND NATURALIZATION SERVICE LOCAL No. 1917 (American Federation of Government Employees AFL-CIO), AND NATIONAL COUNCIL OF IMMIGRATION AND NATURALIZATION LOCALS,

Plaintiffs

- v -

U.S. IMMIGRATION AND NATURALIZATION SERVICE, THE U.S. CIVIL SERVICE COMMISSION, ROBERT E. HAMPTON, JAMES E. JOHNSON, and L. J. ANDOLSEK, members of the U. S. CIVIL SERVICE COMMISSION, and THE UNITED STATES OF AMERICA,

Defendants.

JUDGMENT

69 Civ. 3074 (M.P.)

This action came on for trial before the Court, the Honorable Milton Pollack, District Judge, presiding, and the issues having been duly tried, and an opinion, constituting the Court's findings of fact and conclusions of law as required by Rule 52(a) of the Federal Rules of Civil Procedure, having been duly filed on August 18, 1975 granting judgment to the defendants and ordering the dismissal of the complaint with costs, it is,

ORDERED, ADJUDGED and DECREED, that defendants U.S. IMMIGRATION AND NATURALIZATION SERVICE, U.S. CIVIL SERVICE COMMISSION, ROBERT E. HAMPTON, JAMES E. JOHNSON, and L. J. ANDOLSEK, members of the U. S. CIVIL SERVICE COMMISSION, and THE UNITED STATES OF AMERICA, have judgment against the plaintiffs EDWARD KAVAZANJIAN, FRANK BENEMIO,

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EDWARD BERTELE, FRANK COSTAS, JOSEPH D'AMICO, JOSEPH FARRELL, ALEX FLASTERSTEIN, MARTIN GREENFIELD, JOHN MARTIN, ARTHUR OPPOLIAN, PETE SCALCIONE, and as a class, ALL INVESTIGATORS OF THE U. S. IMMIGRATION AND NATURALIZATION SERVICE, IMMIGRATION AND NATURALIZATION SERVICE LOCAL NO. 1917 (American Federation of Government Employees AFL-CIO), and NATIONAL COUNCIL OF IMMIGRATION AND NATURALIZATION LOCALS, denying claims for relief, and dismissing the complaint, with costs to be taxed.

Dated: New York, New York
September , 1975

_____
U. S. D. J.

Judgment entered this
day of September,
1975

_____
CLERK OF THE COURT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

EDWARD KAVAZANJIAN, et al.,

Plaintiffs :

: 69 CIV. 3074 (MP)

: NOTICE OF APPEAL

UNITED STATES IMMIGRATION & NATURALIZATION SERVICE, et al.,

Defendants.

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Plaintiffs, Edward Kavazanjian, Frank Benemio, Edward Bertele, Frank Costas, Joseph D'Amico, Joseph Farrell, Alex Plasterstein, Martin Greenfield, John Martin, Arthur Apolian, Pete Scalcione, and as a class, all Investigators of the U.S. Immigration & Naturalization Service similarly situated, Immigration & Naturalization Service Local No. 1917, and the National Council of Immigration & Naturalization Locals, hereby appeal to the U.S. Court of Appeals for the Second Circuit from the judgment of Hon. Milton Pollack, United States District Judge, entered in this action on the 5th day of September, 1975.

Dated: New York, N.Y.
October [illegible], 1975.

FRIED, FRAGOMEN & DEL REY, P.C.
Attorneys for Plaintiffs
515 Madison Ave.
New York, N.Y. 10022

ELMER FRIED

TO: United States Attorney
Southern District of New York
1 St. Andrews Plaza
New York, N.Y. 10022

USA 338 - 475
(ED. 4-23-71)

A-89

UNITED STATES CIVIL SERVICE COMMISSION
BUREAU OF INSPECTIONS
WASHINGTON, D.C. 20415

PLAINTIFFS'
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
1 I.D.

JUL 9 - 1968

Mr. Kenneth J. Stallo
Director of Personnel
Department of Justice
Washington, D. C. 20530

[illegible] 2-73-10M-8753

Dear Mr. Stallo:

I very much regret the delay in responding to your April 10 letter requesting clarification of the Civil Service Commission's policy on the classification of positions which are mixed as to grade.

Your letter indicates that you regard application of the "majority of time" rule in deciding appeals from Immigration and Naturalization investigators in New York as inconsistent with application of the "substantial portion of time" rule by our Dallas Region.

The general rule for the classification of mixed grade positions or, in the language of the Introductory Material to Position Classification Standards, the rule applicable "in classifying the great majority of positions" is that the principal duties and responsibilities will govern; i. e., those that take up at least a majority of the employee's working time. This is the principle which was applied in the New York cases simply because there was no apparent reason for departing from the general rule in classifying these positions.

While the "substantial portion of time" principle may properly be applied as an exception to the general rule, the Commission believes that such exception should be undertaken only when there is a bona fide justification. In his authoritative work on Position-Classification in the Public Service, Mr. Baruch has this to say regarding the principle:

> Since this principle is an exception to the general rule, it should be strictly confined and cautiously applied. The necessity for strictly limiting the application arises out of the fact that it permits the employee to draw the pay of a higher class for part of his time when he is actually performing duties of a lower class. A second, and perhaps more serious, point is that it too often permits improper organization of offices and [illegible] distribution of work if the desire of the responsible [illegible] to obtain higher classifications overcomes his desire to organize

in the most effective way for production and general efficiency. Over the matter of organization and the methods of assigning work to employees, the classifying agency generally has little, if any, control. It does have control, however, of the application of the exceptional principle here discussed, which should not be regarded as applicable to a situation in which the duties of positions have been deliberately mixed for the mere purpose of securing higher classifications without regard to logical or effective distribution of work. This situation does not, of course, arise with respect to isolated workers occupying positions of mixed duties, but may occur where the department has spread two or more levels of work among all the employees of a group instead of assigning the work of each level to two or more separate groups.

The situations on which the New York and Dallas decisions are based differ. In New York GS-12 positions have been established to perform GS-12 work. Management may create additional GS-12 positions when the volume of GS-12 work calls for such action. In this situation it is appropriate to apply the general, majority of time rule. In El Paso on the other hand, investigators are assigned to a geographical area and must handle the mine run of work in that area. The breadth of the jobs include not only a "preponderance of work" of the GS-9 level, but also a "substantial portion" at the GS-11. As we understand it, this is so because it is the most efficient and economical way to handle the work load; not because of managerial ineptitude in making assignments or a desire to inflate grade levels. This being the case, the exception, or the substantial portion of time principle is most appropriately applied.

In your letter you asked, "If an investigator in New York devotes a substantial amount of his worktime to grade GS-12 work, is his entitlement to GS-12 any less than that of an investigator in El Paso who spends no greater part of his worktime on GS-12 work?" Our answer to your question is yes, because the two "rules" are not synonymous and the work situations are not identical. This interpretation, we feel, does recognize the facts of a situation, does not require classification decisions based on organizational ideals, and therefore provides both flexibility to management and equity to the affected employees.

With regard to your other question regarding whether management should correct maldistribution of work prior to deciding a classification appeal or at a subsequent time, we must respond that agency management has the right and with this, the responsibility, to distribute work in the manner which will contribute most efficiently to mission accomplishment. Maldistribution of work, when and if it occurs, should be

corrected on a continuing basis. This contemplates continuing watchfulness and periodic surveys to assure that both the distribution of work and the attendant position classifications are proper and equitable. When matters such as maldistribution are acted on only when an employee files an appeal based on a long period of time performing higher grade work, equity is not served, because it denies the employee pay for work assigned from or with the consent of management.

I hope this information will be helpful to you and to the Immigration and Naturalization Service.

Sincerely yours,

Alvin W. Norcross

Alvin W. Norcross
Acting Director

USA 33s - 475
(F.D. 4-23-71)

PLAINTIFFS
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U. S. DIST. COURT
S. D. OF N. Y.

2 I.O.

A-92

UNITED STATES CIVIL SERVICE COMM.
WASHINGTON, D.C. 20415

FPI-MI—2-2-73-10M-8753

Honorable Ramsey Clark
Attorney General
Department of Justice
Washington, D. C. 20530

Dear Mr. Attorney General:

We recently completed a nationwide inspection of personnel management activities in the Immigration and Naturalization Service. Copies of the report are attached. The report is based on reviews of personnel management at headquarters, three regional offices, 15 district offices and four Border Patrol sectors.

The Immigration and Naturalization Service has a loyal and dedicated staff which is proficient in carrying out its operational responsibilities. The Border Patrol recruitment program has produced well-qualified law enforcement officers needed for its mission. There are, however, some very serious deficiencies which I believe require your attention.

- We found a sharp distinction between the line managers' role in program management and personnel management. Managers in line operations, both at headquarters and in the field, do not have personnel management authority commensurate with their program responsibilities. They generally do not participate meaningfully in personnel management decisions which effect their operations.

- The position classification program has been used to keep grades down for employees without regard to the actual level of work being performed. The agency's failure to operate an adequate and effective classification program has resulted in hundreds of employees filing classification appeals with the Civil Service Commission.

- The merit promotion program for certain important categories of employees does not identify the best-qualified candidates. Supervisors and employees both at headquarters and in the field have little confidence in this program which is highly centralized, difficult to comprehend and secret in operation.

- Seventy percent of all Service personnel in grades GS-13 and above are in the age group where their potential retirement poses a serious problem. The Service has not developed a plan to assure high-quality replacement of top managers and others with highly specialized skills required in an era of growth and changing technology.

- Dependence on the Border Patrol as the principal source of intake has handicapped the Service in getting enough individuals with backgrounds of experience and education required to meet future needs for executive and managerial talent. Utilization of this as the primary intake source has also severely limited the opportunities for selection and advancement of minority group members, of women, and of handicapped persons.

- A lack of confidence on the part of many employees in management has led them to seek relief through avenues outside of normal agency channels. A very serious morale situation appears to exist in the Service.

The report contains specific recommendations in such areas as manpower planning, work organization and position management, recruiting, and utilization of the workforce. In general, they call for a better coordinated approach to personnel management. However, it is most essential that action be taken promptly to rebuild confidence on the part of both supervisors and employees in management of the Service.

I suggest that the Department work with the Service to develop a comprehensive action plan to implement recommendations and to establish a personnel management program which is fully responsive to the dictates of sound management as well as to public policy.

After you have read the report, I would appreciate an opportunity to meet with you to discuss our basic findings and the scope of the actions needed.

Sincerely yours,

John W. Macy, Jr.
Chairman

Attachment

USA 33s - 475
(ED. 4-23-71)

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U. S. DIST. COURT
S. D. OF N. Y.

3 I.D.

A-94

USCSC INSPECTION PROGRAM
A PROGRESS THROUGH PARTICIPATION

EVALUATION of PERSONNEL MANAGEMENT

IMMIGRATION AND NATURALIZATION SERVICE
Nationwide

Department of Justice

January 1968

U. S. CIVIL SERVICE COMMISSION

Bureau of Inspections
Washington, D. C.

and will eliminate unnecessarily established centrally operated rosters. (An exception could be made in the case of the Border Patrol, which could continue to operate under a separate, centralized plan.)

2. Introduce other qualitative evaluation elements in addition to supervisory appraisals with less emphasis on seniority in position.

3. Delegate operation of plan and selection authority through GS-11 to regional offices (provide for inter-regional filing).

4. Publicize new plan to all employees; seek union participation in publicizing new plan. Provide for employee involvement in the evaluation of merit promotion program operations.

5. Follow up with carefully planned supervisory training and continuing evaluation.

Position Classification

The failure to soundly administer the position classification program threatened loss of control of the classification process and imperiled the exercise of the management prerogatives of the Service. The program was based on an over-dependence on written policy and procedural statements and standard job descriptions. Supervisors had not usually carried out their responsibilities to reflect changing work assignments on position descriptions and management tended to refuse to recognize actual changes in duties by official actions. As a result, employees lacked confidence in the position classification process.

Recommendations:

1. The Service must immediately undertake a review of its positions to identify those which are not accurately described and classified and take prompt remedial action to classify positions on the basis of duties performed. This review must provide for an adequate number of desk audits to be made on a continuing basis at regional and district office levels, and at Border Patrol sector locations.

2. The Service must delegate authority and make supervisors and field officials aware of their responsibilities in the area of position classification. It must provide for classification of positions based upon work assigned by local authority and performed with the supervision and knowledge of that local authority.

POSITION CLASSIFICATION

The Immigration and Naturalization Service was not meeting its responsibility under the Classification Act of 1949 (now Title 5, Chapter 51 U.S. Code) by carrying on a program that would assure the Commissioner, the Attorney General, and the Civil Service Commission that its obligation to classify jobs accurately under Civil Service Commission standards would be met. Employees tended to rely on appeals to force management to take classification actions that should have been taken on management's own initiative. A firefighting response to pressures occurred, with no planned approach to identify and deal with problem situations and no effective means for getting information on how jobs actually operated in reality as compared to the paper record.

Individual and group classification appeals had been filed by employees in most of the major occupations. Well over 300 appeals had been filed since April 1966 by employees from all sections of the country.

- Group appeals had been filed by:
  - o Detention Guards
  - o Contact Representatives
  - o Investigators, GS-9 and 11
  - o Immigrant Inspectors
  - o Deportation Officers
  - o General Attorneys
  - o Trial Attorneys.
- We were also told that further appeals might be filed by Assistant District Directors--Travel Controls, Investigations, and Radio Operators.

Lacking a systematic approach that would identify problem areas before they assumed large proportions, the Service had not been in a position to respond except on a case basis. There was a danger that the response to some immediate problems might be greater than the situation actually required. Prompt recognition and attention given to incipient problems would give lead time to develop considered plans of action.

There was overdependence upon written policy, procedures, and standard position descriptions. Duty assignments had changed and specialized types of positions had evolved. These changes had not been reflected,

however, in current position descriptions and this limited the value of position descriptions for management purposes. Some jobs had been maintained in incorrect grades for years and some employees had been improperly detailed for years.

The classification maintenance review program was ineffective, and was not providing the information needed by management. Annual certifications of job need and accuracy required by the so-called Whitten Amendment were not meaningful. Jobs had been certified as correct for years even though significant duty changes had occurred.

- Headquarters classifiers had a limited knowledge of "grass-roots" operations.
  - o There were infrequent field visits by headquarters classification staff members.
  - o No desk audits were made below regional office level by classifiers from headquarters.
  - o Regional office positions were not included in the maintenance review coverage made by regional classifiers.
- Regional office classifiers did not keep abreast of changing duty assignments.
  - o Many field jobs had not been currently described for years.
  - o Appeal decisions had recently upgraded many positions, some of which may have been improperly classified for long periods.

Limited classification authority had been delegated by headquarters. Lack of authority to take action had led to a feeling on the part of supervisors in the field that they had no responsibility in the area of position classification. (See discussion under "Managers Lack Adequate Management Tools.")

- The classification process was not understood or fully supported by supervisors. This had limited the usefulness of the classification program to management.

Employees lacked confidence in the system; many employees appealed initially to the Civil Service Commission or sought union or Congressional assistance rather than using Service appeal channels. The Service's response to appeals had sometimes been to order that assignments be limited in ways which were unrealistic or impossible in the light of local staffing and work assignment patterns.

- Field supervisors said that when, in accordance with prescribed procedures, their proposed changes in duty assignments for classification action one of three things happened:

  - o No action was taken by higher authority.

  - o The District Director was ordered to withdraw the duties.

  - o Only on rare occasions were the revised position descriptions approved with changes in title, series, and/or grade when appropriate.

Recommendations:

1. The Service must immediately establish an adequate position classification program as a basis for managing its resources. It is essential that this be established immediately and that it result in:

   - Objective evaluation of positions.

   - Corrective action where needed.

   - Understanding and acceptance by supervisors and managers of their role in the classification process.

   - Employee confidence in the equity of the classification process.

   - Effective maintenance review on a continuing basis.

2. A greatly increased number of field visits should be made by both headquarters and regional office classifiers if these objectives are to be met. As part of this, the Service should also consider further delegation of classification authority to the field, with sufficient competent staff assistance locally available.

W.B

3. These recommendations will require the Service to allocate more staff resources to this program. As an immediate action, the Service must conduct a review in depth of each of the job categories on a nationwide basis which have led to mass appeal to the Civil Service Commission.

At headquarters one change to lower grade was required based on our audit of a sample of positions. Other required changes were agreed to on-site. The case listing for headquarters will be sent separately.

USA 33s - 475
(FD. 4-23-71)

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4 I.D.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

A-99

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Edward Kavazanjian, New York District
Immigration and Naturalization Service

DATE: MAR 20 1964

FROM : E. A. Loughran, Associate Commissioner, Management
Immigration and Naturalization Service

NORTHEASTERN
HEADQUARTERS
RECEIVED
MAR 2 1964
AM
IMMIGRATION AND NATURALIZATION SERVICE

SUBJECT: Classification Appeal

THROUGH: Associate Deputy Regional Commissioner, Management
Burlington, Vermont

This is in response to your letter to the Commissioner concerning grades of investigators.

As you may know, the Civil Service Commission, during their recent study of classification throughout the Service, complied with our request that special attention be given to investigator positions. It is anticipated that their reports and recommendations will be received sometime this spring. They will be studied thoroughly to determine what action we might wish to take.

This is in line with our policy of continually making joint studies of officer positions with the chiefs of the operating divisions to determine whether any changes in descriptions or grades should be made. In the past this has led to revisions of position classification standards or position descriptions in recognition of changes in levels of duties and responsibilities. As a result we have in the past raised grades for Immigrant Inspectors, Patrol Inspectors, Naturalization Examiners, Special Inquiry Officers, and Investigators.

A-100

USA 33s - 475
(ED. 4-23-71)

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S. D. OF N. Y.
5 I.O.

FPI-NI—2-2-73-10M-8753

UNITED STATES GOVERNMENT U.S. CIVIL SE

Memorandum

Subject: Report of Inspection of New York District, Immigration and Naturalization Service

From: James F. Googe, Director
New York Region

To: Mr. Leonard F. Cronin, Director
Boston Region
U.S. Civil Service Commission
Post Office & Courthouse Bldg.
Boston, Mass. 02109

In accordance with the plan for the nationwide inspection of the Department of Justice, we are furnishing you a report of our inspection of the INS New York District Office. Attached are copies of our letter report to the District Director and of our report of a special inquiry conducted in March 1963. Also attached are summaries of questionnaire results and a copy of CSC Form 29. Additional information for your use in evaluating the regionwide program of the Northeast Regional Office of INS in Burlington, Vermont is provided below.

Organization for Personnel Management

District officials expressed satisfaction with personnel policies and programs and with the personnel services provided by the Regional Office in Burlington. They indicated that the lack of authority to effect personnel actions and the fact that the District does not have its own personnel office present no real problems. The Regional Personnel Office provides prompt service on individual cases or questions. Staff assistance on programs and the participation of the personnel staff in management planning occurs primarily at the Regional Office level. The District Director does not have authority to initiate significant management changes without approval or direction from the Regional Office, and consultation with the personnel office would therefore be initiated by operating officials at the regional level. While it would appear desirable in principle to delegate greater authority for personnel management to the head of an organization of 750 people, we found no evidence and received no complaints that the centralization of authority handicaps District operations.

Establishing and Maintaining a Work Force

The major occupational groups that make up most of the work force of the New York District are investigators and immigrant inspectors, who are [illegible] "officer" personnel, and clerical employees. In the past, officer personnel were recruited primarily from the ranks of the Border Patrol. Recently,

GS FORM 63

Occasionally the District Office has made use of training offered by other agencies.

Informing the Work Force

Written material is generally adequate; however, employee interview and questionnaire responses indicate that the substance of the written material is not getting through. A number of employees were not cognizant of the promotion plan, the availability of classification standards, or of various upward channels of communication. There would appear to be a need for supervisors to discuss various policy statements with employees to insure that there is a fuller understanding of their philosophy and content. Despite the questionnaire results we find it difficult to believe that a majority of employees are unaware of the existence of a written promotion plan. We believe rather that the response reflects lack of knowledge of specific methods and procedures followed and unavailability of information regarding individual promotion actions.

Employee Services

The District Office is located in a relatively new building. The work environment is excellent and there is a wide range of employee services. These include a snack bar and lunchroom, vending machines and coffee wagons, ping pong tables, and a lending library. There is also a full-time nurse available to provide emergency medical services.

Employee Records

No duplicate or unnecessary records are kept at the District Office. "Employee Record Card", OF-4B, is utilized and properly maintained.

Position Classification

Management officials make work assignments in accordance with grade levels and appear to have a good understanding of the level of difficulty of the various types of work. While there is generally good acceptance of position classification on the part of management, there is the feeling that some positions of investigator, immigrant inspector and detention guard warrant higher grades. Desk audits and employee interviews disclosed substantial dissatisfaction and disagreement with the grades of investigator positions. This is readily understandable in view of the findings of our study of these positions.

In accordance with the special request item in the nationwide plan, particular attention was given to the classification of investigator positions. Desk audits were made of 12 investigator positions in grades [illegible] one exception, these positions were found to be properly classified under the single-agency standards. We feel, however, that the standards need revision to provide a more equitable grade structure and to reflect more accurately the actual grade distinctions.

The standards indicate that cases assigned to a GS-9 investigator typically involve a single issue and a single individual, while assignments at the GS-11 level usually involve multiple issues and have a potential for developing into a number of individual cases. In actual practice most of the cases assigned to both GS-9 and GS-11 investigators involve single issues and only one or two persons. Most of the GS-11 positions appear to be weak for the grade in terms of the standards. While the differences between GS-9 positions and the typical GS-11 position in actual operation are less than those reflected in the standards, they appear to justify the difference in grade. Cases assigned to GS-11 investigators which exceed those typical of the GS-9 level include "private bill" cases (these involve Congressional and public interest), "first preference" cases (these involve establishing whether the alien involved possesses a scarce skill and whether the petitioner urgently needs the services or skills of the alien in his business), and cases which appear to have a potential for involving fraud, conspiracy or other complications.

In actual operation, the distinction between GS-9 and GS-11 positions tends to be minimized because of two factors: (1) the difficulty in determining at the time of assignment the actual difficulty and complexity which will be encountered; and (2) the necessity for assigning GS-9 cases to GS-11 investigators, and, to a lesser extent, GS-11 cases to GS-9's in order to cope with the existing workload at a particular time. There are, however, a small number of GS-11 investigators who typically are assigned the most complex cases arising in the office, e.g., visa fraud conspiracies involving a number of persons in which the area of investigation may extend to other districts and other countries. The level of difficulty of the work of these positions significantly exceeds that of the typical GS-11 position and warrants a higher grade. However, the INS supplement to the GS-1810 standards appears to preclude the classification of these positions at the GS-12 level. While the Commission "Grade-Level Guides for Classifying Investigator Positions" provide for a GS-13 level, the INS supplement appears to preclude the possibility of a nonsupervisory position above the GS-12 level. We believe the INS standards should be revised to permit classification of the strongest GS-11 positions at the GS-12 level, and to provide a more accurate and realistic distinction between existing GS-9 and GS-11 positions.

The widespread dissatisfaction among investigator personnel regarding classification is inevitable because of the relatively fine line between the majority of GS-9 and GS-11 positions and the much clearer difference between the run of the mill GS-11 position and the GS-13 position which involves the conduct of the most difficult and complex investigations.

Equal Employment Opportunity for Minority Groups

Each employee has received a copy of Department of Justice Order No. 265-62, dated March 18, 1962, which details policy and procedure on Equal Employment Opportunity. The non-discrimination feature has been incorporated in the

Management Cooperation, discussing the above issuances, and the status of recognition for various groups.

In our April 1963 report, it was noted that the local AFGE Lodge (No. 1917) had forwarded a request for formal recognition to the Commissioner of Immigration and Naturalization. The application was returned to the Lodge for resubmission in accordance with the instructions issued in TM 513 of July 15, 1963. The Lodge, which has just installed a new president and now has a membership of 276, is presently in the process of preparing the new application. The AFGE has formal recognition at the national level.

The other employee group which is active at the installation - The U.S. Immigration and Naturalization Officers Association - is reported requesting formal recognition at the national level. No request for official recognition at the local level is being made at this time.

Neither management officials nor employee organization representatives reported any problem because of the delay in the implementation of EO 10988 or for any other reason.

The April 1963 report noted the issuance to each employee of a copy of Department of Justice Order No. 278-62 on Adverse Actions. It was also noted that grievance procedures conforming with the new Executive Order requirements were in the process of being rewritten. No further progress is reported at this date.

There have been no appeals, adverse actions, or formal grievances since the date of the report.

USA 33s - 475
(ED. 4-23-71)

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U. S. DIST. COURT
S. D. OF N. Y.

6 I.D.

FPI-MI—2-2-73-10M-8753

District Director, New York Region
U. S. Civil Service Commission
News Building
220 East Forty-Second Street
New York, New York 10017

Dear Sir:

This is in reply to your file FNE:rp of March 30, 1967 concerning the classification appeal of Mr. Jerome Axelrod, a GS-11 General Investigator in our New York office.

Enclosed are copies of the current General Investigator, GS-11 position description #603A7 outlining the duties and responsibilities which have been assigned to Mr. Axelrod by management and an organization chart of the Investigations Branch of the New York District.

A review of Mr. Axelrod's position revealed that he has been specifically assigned to the Fraud Section as shown in the enclosed organization chart. It was determined as a result of this review that Mr. Axelrod was spending the majority of his time on cases described at grade 11 and that no cases had been assigned him that could be considered grade 12 as described in the Supplement to the Position Classification Standards for the General Investigating Series. Since the supplemental standard was written exclusively for General Investigator positions in this Service, a direct relationship exists between the standard and the position description assigned Mr. Axelrod. The position description is in effect a rewrite of the grade 11 classification standard and is directly evaluated by it.

The duties and responsibilities being performed by Mr. Axelrod have been evaluated at grade 11 by reference to the current classification standards and therefore, we consider his position to be properly classified.

Sincerely,

E. A. Loughran
Associate Commissioner, Management

Enclosures
cc: Associate Deputy Regional Commissioner, Management - NERO
cc: Mr. Burrows

BJF:lw

DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING 220 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

A-105

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

USA 33s - 475
(E.D. 4-23-71)

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7 I.D.

FPI-MI—2-2-73-10M-8755

Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization
Service
Washington, D. C. 20536

Dear Mr. Loughran:

Enclosed is a copy of our decision on the classification appeal of Mr. Jerome Axelrod, General Investigator GS-1810-11 in the New York District Office. We have reclassified Mr. Axelrod's position to General Investigator GS-1810-12.

We found in our review that for the last year Mr. Axelrod has been spending almost 85 percent of his time on a conspiracy case of great magnitude which resulted in the indictment of a practising attorney. Mr. Axelrod worked with almost complete independence in investigating leads, interviewing witnesses, securing affidavits, selecting the investigative techniques to use, writing the necessary reports. The latter were prepared jointly with another investigator (Beller) at the GS-12 level whose grade was based mainly on this conspiracy case.

Corrective action to classify the position to the proper grade is required and should be effected in accordance with page 511-21 of the Federal Personnel Manual.

Sincerely yours,

L. H. Baer
Regional Director

Enc.

U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING 220 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

A-106
NEW YORK REGION
COMPRISING THE STATES OF NEW YORK AND NEW JERSEY
OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

[illegible]
OCT 1 [illegible] 1967
YOUR REFERENCE

Mr. Jerome Axelrod
U. S. Immigration and Naturalization
Service
20 West Broadway
New York, New York 10007

Dear Mr. Axelrod:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 by the Immigration and Naturalization Service.

We have reviewed the information presented by you and your agency, and that secured during a desk audit of your position. We evaluated your position against the Civil Service Commission's classification standards for General Investigators in the Immigration and Naturalization Service.

It is our conclusion that your position meets the criteria in the standards for GS-12 investigators.

It is our decision that your position should be classified as General Investigator GS-1810-12, and we have requested your agency to take the appropriate classification action.

Sincerely yours,

L. H. Baer
Regional Director

c.c. Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

A-107

ADDRESS:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING 220 EAST FORTY-SECOND ST
NEW YORK, N.Y. 10017

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UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

USA 33s - 475
(ED. 4-23-71)

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8 I.D.

FPI-NI—2-2-73-10M-8755

Mr. Joseph A. Sena
U.S. Immigration and Naturalization
Service
20 West Broadway
New York, N.Y. 10006

Dear Mr. Sena:

This is our letter of decision on the appeal submitted by you and 53 other General Investigators GS-1810-11 employed in the New York District Office of the Immigration and Naturalization Service. These appeals were contained in four letters submitted at varying times by groups of employees ranging in size from 2 to 22.

As you know we made a site audit of your position so that we could determine the nature and complexity of the cases assigned to you. We reviewed the results of this audit and the information submitted by you, your co-appellants and your agency, and evaluated it against the Supplement to the Position Classification Standards for the General Investigating Series, GS-1810-0 for the Positions in the Immigration and Naturalization Service, Department of Justice. This Supplement was approved by the Civil Service Commission as an extension of the Commission's position classification standards for the General Investigator Series, GS-1810-0.

The letters of appeal with which you are associated claim higher grades because the investigative work performed is of GS-12 caliber, and secondly because positions in other investigative agencies with similar or lesser investigative responsibilities have been assigned GS-12 grades.

We do not compare one position against another in the same or another agency to determine the proper classification. The Classification Act of 1949 which governs the classification of positions requires that "each department shall place each position under its jurisdiction----------in its appropriate class and grade in conformance with standards published by the Commission." We must therefore determine the classification of your position by comparing it against the aforementioned standards.

In your appeal you question the propriety of titling your present job as General Investigator rather than Criminal Investigator. The type of work which you do is specifically covered in the standards for the General Investigating Series. Therefore we can find no basis for changing your title.

The standards for the General Investigating Series point out that "the basic knowledges and skills required by investigators at all levels are essentially the same. All investigators must have a good knowledge of all immigration and nationality laws, and specific knowledge of those directly relating to violations thereunder, as well as specific knowledge of the criminal statutes relating to the enforcement of the immigration and nationality laws. They must keep currently informed of precedent decisions, both judicial and administrative, and of Service policy having a bearing on the enforcement of these laws. They must know and be able to determine when a prima facie case is present for the initiation of either administrative or judicial proceedings within Service jurisdiction. They must be able to analyze cases and plan the course of investigations; adapt methods, techniques, and procedures to meet unusual situations or conditions; be skilled in conducting interrogations, eliciting information from violators or reluctant witnesses and evaluating reliability and credibility of witnesses; in examining records, documents, and other evidence to detect fraud; in tracing and uncovering evidence of assumed or

concealed identities; in reporting facts and distinguishing between relevant and extraneous information; in techniques of unarmed self defense; in the use of firearms; in undercover and surveillance work and in dealing with emergency situations. They must possess ingenuity and resourcefulness in recognizing, developing, and exhausting all leads in a case."

The grades assigned to positions depend upon the types of assignments carried out. The complexity and delicacy; impact on national security, social welfare or economy; scope; and importance of the individuals involved affect the grade of the position. Thus, at the GS-11 levels, assignments "involve multiple issues; have a potential for developing into a number of individual cases; consistently require unusual skill and ingenuity in uncovering and developing facts; and, because of the seriousness of the violations or actions involved, or the prominence of the individuals involved, are either (a) greater in their effect as deterrents to further violations, or (b) have a greater protective value to the economy and security of the country, than the investigative assignments at the next lower level."

At the GS-12 level assignments "are relatively limited in volume------are of the "most complex and delicate nature, where the issues involved have a grave impact on the national security; involve important political, social, or similar implications; or involve persons whose conviction would be of material benefit to the nation's economy, social welfare, or security. The nature of the case assignments is such that the investigations are nationwide in scope, or where less than nationwide, are particularly complex, or the case is extremely important from the standpoint of potential effect on Service-wide operations." At this grade level investigators "must be skillful in organizing and planning large-scale investigations, and coordinating multiple investigations conducted at many points within the United States and overseas."

Many positions contain responsibilities which are classified at different grade levels. In assigning the final grade to such a position, we classify all the significant responsibilities to their appropriate levels, basing the final determination on the level of the duties which occupy a majority of the employee's time. Your position has in it a mixture of cases which are allocable to the GS-11 and GS-12 levels. Although some of your cases involve elements of assignments found at the GS-12 level, e.g., "complexity, delicacy, and impact on the national economy, social welfare, or security," we did not find that they occupied a majority of your time.

We have also considered the impact of your supervisory assignment on the grade of your position. When you are acting as assistant to the unit chief your major supervisory responsibility is to guide and review the work of the GS-9 investigators. Your supervision over the GS-11 investigators is minimal, being concerned with administrative matters rather than review of the investigative work or evaluation of its effectiveness. In our opinion your supervisory responsibilities do not affect the final allocation of your position.

It is our decision that your position is properly classified as General Investigator, GS-1810-11.

Sincerely yours,

L. H. Baer
REGIONAL DIRECTOR

cc: Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D.C. 20536

Mr. Joseph A. Sena

A-111

UNITED STATES CIVIL SERVICE COMMISSION

BUREAU OF INSPECTIONS

WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

ICA:APP

YOUR REFERENCE

JUN 9 1967

PERSONAL

Mr. Joseph A. Sona
Immigration and Naturalization Service
20 West Broadway
New York, New York 10007

Dear Mr. Sona:

We have completed our review of your position classification appeal which was denied by our New York Region.

Our study included careful consideration of the arguments presented in support of your request for reconsideration and the file developed by the New York Region on the case, as well as discussion of your work with supervisory personnel in your organization.

We find no evidence of failure on the part of our regional office to consider all material facts and no indication of probable error in the Region's decision. Accordingly, we are affirming the decision of the Region that your position is properly classified at the GS-11 level.

Sincerely yours,

John D. Glasheen

John D. Glasheen
Chief, Classification
Appeals Office

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

A-112

Memorandum

CO 612.1-C

TO : Joseph A. Sena, General Investigator, New York

DATE: AUG 25 1967

FROM : Associate Commissioner, Management

SUBJECT: Classification Appeal

THROUGH OFFICIAL CHANNELS

Your letter to the Commissioner concerning the classification of your position has been referred to this office for reply.

You refer in your letter to the procedures used and guidelines followed in reclassifying positions in each of the other Districts and Regions throughout the country.

As you know, the Service has recently completed an extensive nationwide survey of all grade GS-12 level general investigative work being performed in each of our offices. As a result of this survey, some 47 grade GS-12 General Investigator positions were established at various offices throughout the country in addition to the 23 grade GS-12 positions reclassified by the New York Region and the Bureau of Inspections of the Civil Service Commission in our New York office. The guidelines or "yardstick" used in establishing each of the 47 positions created by the Service was identical in each office. Briefly, where a General Investigator grade GS-11 was found to be spending a majority of his time on work evaluated at grade GS-12, his position was reclassified. Secondly, in an office where the workload in toto indicated a need for a grade GS-12 level position but where no General Investigator was identified as having spent a majority of his time on grade GS-12 work, the position established was filled by reclassification of the General Investigator in the office performing the highest percentage of grade GS-12 level work. Again, these were the guidelines used in every reclassification action taken by the Service.

With reference to the Service giving reconsideration to officers whose appeals have been denied by the Civil Service Commission, we believe all those officers who had been spending the majority of their time on grade GS-12 level work have been reclassified, and that these 26 officers will adequately handle all the grade GS-12 level work in New York in the foreseeable future. Therefore, we find no disagreement with the decision rendered by the Commission in your case. Further, if material information

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9/10-114

not previously considered exists or if there is a reasonable doubt as to the decision rendered by the Commission an additional appeal must be submitted to the Commission not to the Service.

We regret our response could not have been more favorable, however, we are happy to have had this opportunity to explain our action taken.

A. Lawrence

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

A-114

UNITED STATES GOVERNMENT

Memorandum

NYC 71/20-C
DATE: January 19, 1968

TO : Joseph A. Sena, Investigator,
New York, N. Y.

FROM : P. A. Esperdy, District Director,
New York, N. Y.

SUBJECT: Position Reclassification

I was requested on July 27, 1967 by you through Mr. Jack Lazarus, President, AFGE Lodge #1917, to express my opinion of the proper grade level of the investigative work performed by you in the New York District for the period covered in your memorandum, with attachments, furnished to me. I had agreed to do so with the clear understanding that it was not an official decision of the Immigration and Naturalization Service and did not bind the Service or the Civil Service Commission. It was to be merely my own personal opinion based upon my experience in the Service.

Press of other work has not permitted me heretofore to furnish you my opinion. Since receiving your request, however, I have received an instruction dated December 15, 1967 from the Northeast Regional office to which was attached recommendations dated November 27, 1967 from the Civil Service Commission to the Immigration and Naturalization Service. The spirit and intent of these instructions permit me to give you a more official opinion.

The Civil Service Commission's recommendation is to the effect that when an investigator files a classification appeal, he should furnish a case summary such as you have furnished and such "case summaries which present adequate information should be sent to a responsible official in the New York District office with a request that he review the summaries and give an official INS position regarding them." Although you do not have presently pending an appeal with the Civil Service Commission, I am applying the recent instruction nunc pro tunc on the theory that if it is desirable that it be done now, it likewise should have been done at the time your appeal was pending.

I have very carefully considered the resume presented by you and have had the necessary discussion with your supervisors. It is my conclusion that for the period in question you devoted better than 50% of your time to investigative work which is at the grade GS-12 level. It is my opinion that reaching the conclusion that your work was at the GS-11 level was wholly in error. I am completely unable to perceive how such a conclusion could have been reached when at the same time

5010-106

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a favorable decision allocating GS-12 positions were made in the cases of Investigators Ricciardi, Kavazanjian and Lazarus. If the GS-12 standards were applied to their work as it was done and they were found to fall adequately within the GS-12 level, then it is inescapable that by using the same measures they should have found you entitled to a GS-12 classification. I am quite familiar with the area in which you worked and the scope of your investigative activity. I am personally acquainted with many of the cases that you handled. A more serious study in depth of your responsibilities and activities should have awarded you the higher classification.

A-116

STANDARD FORM 50—Rev. December 1961
U.S. Civil Service Commission
FPM Chap. 295

NOTIFICATION OF PERSONNEL ACTION

(EMPLOYEE — See General Information on Reverse)

6 PART
50-125

(FOR AGENCY USE)

1. NAME (CAPS): LAST—FIRST—MIDDLE	2. (FOR AGENCY USE)	3. BIRTH DATE (Mo., Day, Year)	4. SOCIAL SECURITY NO.
SENA, JOSEPH A., MR.		09-19-19	069-16-9021

5. VETERAN PREFERENCE	6. TENURE GROUP	7. SERVICE COMP. DATE	8. PHYSICAL HANDICAP CODE
2 (1—NO, 2—5 PT., 3—10 PT. DISAB., 4—10 PT. COMP., 5—10 PT. OTHER)	1	03-28-47	00

9. FEGLI	10. RETIREMENT	11. (FOR CSC USE)
4 (1—COVERED, 2—INELIGIBLE, 3—WAIVED)	1 (1—CS, 2—FICA, 3—FS, 4—NONE, 5—OTHER)	

12. CODE	NATURE OF ACTION	13. EFFECTIVE DATE (Mo., Day, Year)	14. CIVIL SERVICE OR OTHER LEGAL AUTHORITY
702	Promotion	04-07-68	Reg. 335.102(a)

15. FROM: POSITION TITLE AND NUMBER	16. PAY PLAN AND OCCUPATION CODE	17. (a) GRADE OR LEVEL	(b) STEP OR RATE	18. SALARY
603A7		11	06	pa-$11,267

19. NAME AND LOCATION OF EMPLOYING OFFICE

20. TO: POSITION TITLE AND NUMBER	21. PAY PLAN AND OCCUPATION CODE	22. (a) GRADE OR LEVEL	(b) STEP OR RATE	23. SALARY
General Investigator 673A1	GS-1810	12	03	pa-$12,225

24. NAME AND LOCATION OF EMPLOYING OFFICE

I&N Service, Northeast Region, New York District, Investigations Branch, New York, New York

25. DUTY STATION (City—county—State)	26. LOCATION CODE
New York, New York	31-4170-061

27. APPROPRIATION	28. POSITION OCCUPIED (1—COMPETITIVE SERVICE, 2—EXCEPTED SERVICE)	29. APPORTIONED POSITION FROM:	TO:	(1—PROVED-1, 2—WAIVED-2)	STATE
S&E, I&N Field 1968	1				

30. REMARKS: A. SUBJECT TO COMPLETION OF 1 YEAR PROBATIONARY (OR TRIAL) PERIOD COMMENCING

B. SERVICE COUNTING TOWARD CAREER (OR PERMANENT) TENURE FROM:

C. DURING PROBATION D. FROM APPOINTMENT OF 6 MONTHS OR LESS

SEPARATIONS: SHOW REASONS BELOW, AS REQUIRED. CHECK IF APPLICABLE:

Recl.

31. DATE OF APPOINTMENT AFFIDAVIT (Accessions only)	34. SIGNATURE (Or other authentication) AND TITLE
32. OFFICE MAINTAINING PERSONNEL FOLDER (If different from employing office) Washington, D. C.	
33. CODE EMPLOYING DEPARTMENT OR AGENCY DJ05 Immigration & Naturalization Service	35. DATE 04-02-68

1. EMPLOYEE COPY

☆U.S. GOVERNMENT PRINTING OFFICE: 1967—263-996

Noted by TSR

A-117

ADDRESS:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING 220 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

USA 33s - 475
(ED. 4-23-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

9 I.D.

FPI-MI—2-2-73-10M-8753

Mr. Peter Scalcione
108 Field Place
Bronx, New York 10458

Dear Mr. Scalcione:

This is the letter of decision on the classification appeal that you submitted to this office on February 27, 1968.

In your letter you cite the case of Hubert Uriah Roberts which was assigned to you in November, 1966, to support your argument that your position should be classified at GS-12. You say that this case and 61 collateral cases occupied more than 75 percent of your time during the period from November 1966 to February 1968. In your letter, and during the audit conducted by a representative of this office on May 15, 1968, you indicated that your appeal was based on this one case which occupied a major portion of your time.

In a memorandum to you on February 21, 1968, the District Director discussed your work assignments and expressed his opinion concerning the grade level of the work. He considered the Roberts case borderline between GS-11 and GS-12 if one investigator had handled the case in its entirety. He then pointed out that other investigators had been involved in the case and had developed it before it was assigned to you.

Officials in the Investigations Branch spoke of a change in the manner in which cases are being assigned. The present practice is to assign cases to investigators taking into account the anticipated level of difficulty and responsibility of the case. Recognizing that in some cases this cannot be anticipated, the practice was instituted whereby the case is reassigned when it becomes apparent that it is beyond the grade of the investigator to whom the initial assignment was made. This policy has been enunciated and is known to employees.

With reference to your position, except for the Roberts case which, according to the District Director is borderline between GS-11 and GS-12, the cases assigned to you do not exceed GS-11. From discussions with officials in the Investigations Branch it is apparent that borderline

cases, such as the Roberts case, are not being assigned to GS-11 investigators and that the present practice is to assign such cases to GS-12 investigators so as to utilize them to the fullest possible extent on GS-12 work.

In determining the classification of a position we consider regular, recurring duties. In your case it is clear that the Roberts case, on which you base your appeal, is not a recurring assignment and cannot be used in evaluating your position. Accordingly, it is the decision of this office that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

John E. Sauerhoff, Jr.
Chief,
Evaluation Branch

c.c. Associate Commissioner, Management
Immigration and Naturalization Service
Washington, D. C. 20536

A-119

Memorandum

USA 33s - 475
(ED. 4-23-71)

PLAINTIFFS
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
10 I.D.

TO : All District Directors and Officers in Charge, Southwest Region

FROM : M. F. Fargione, Deputy Regional Commissioner, Southwest Region

SUBJECT: Classification Appeals---Investigative Work Assignments

I am concerned about the investigative classification appeals emanating from the various offices of this Region. After a study of this matter, it appears to me that the primary factor is the action on the part of the investigative supervisory personnel of misassigning investigative assignments contrary to outstanding instructions. Attached are memorandums of November 14 and 26, 1963, and May 1, 1964, which state policies concerning the subject. In addition, the I & NS Investigator's Handbook states as follows:

> "Work assignments should be consistent with grade of the investigator. For instance, no work at the GS-12 level should be assigned (except for training purposes) to a GS-11 investigator unless workloads at the GS-12 level exceed available GS-12 manpower. While it may be necessary to deviate from this rule in order to meet deadlines or comply with priorities, supervisors shall insure that assignments to higher grade work will not exceed 20% of the investigator's time. Report in the Monthly Activity Report, under the caption "Special Items", all situations where manpower limitations, investigative priorities, or other factors preclude adherence to this limitation." (Chapter 15.1-1)

With respect to the above quoted part from the I & NS Investigator's Handbook, the Assistant Regional Commissioner Investigations, in his memorandum dated June 30, 1967, advised all District Directors of this requirement with the instruction "Please ensure compliance in your district with the foregoing amendment, which has equal applicability to all GS investigator grade levels." The existence of unusual work priorities and manpower limitations is expected to be reported under "Special Items" in Monthly Investigative Activity reports. By this means, this office may be aware of such problems.

Investigative cases or assignments which are not handled by General Investigators commensurate with their grade are to be distributed to the lower grade General Investigators on an equitable basis for training purposes. Utmost supervisory control should be exercised to avoid exceeding the maximum percentage of time for performance of higher grade investigative work.

Classification appeals submitted to the Civil Service Commission normally follow the below procedure:

(1) This office receives a letter from the Civil Service Commission notifying us of the appeal and requests information in order that the appeal may be adjudicated. This office will in turn,

if required, request summaries of cases or assignments. Copy 5 of Form G-600 (Investigations Control Card) will provide a ready reference for the identification of an investigative case handled by the appellant. The Investigator's Handbook has been amended to require retention of #5 copy for a period of two years after completion of the case or assignment.

(2) The above is in addition to requests received by field offices from the Civil Service Commission for other information. In such cases, copies of correspondence with the Civil Service Commission should be sent to this office. This procedure is covered in our memorandum dated December 20, 1967, "Civil Service Commission Procedures for Classification Appeals of General Investigators".

In order to avoid the types of investigative classification problems which have confronted us, please insure through direct review if necessary, that assignments are made commensurate with the grade level of the individual to whom the work is being assigned.

W. F. Rainone

DISTRIBUTION B (except Border Patrol Sectors)

UNITED STATES GOVERNMENT

Memorandum

SW 71/19-P

TO : District Directors, Southwest Region

DATE: NOV 14 1963

FROM : L. W. Gilman, Associate Deputy Regional Commissioner, Operations

SUBJECT: Investigative Work Assignments

Immediate steps are to be taken to assure that Investigators are assigned to duties within their respective job descriptions and present job standards.

Assignment of GS-11 work to GS-9 Investigators should be limited solely to assignments for training purposes and to handle limited cases in remote areas where it would be more efficient and economical to assign such work to a GS-9 Investigator who would be working in the area.

In no event should a GS-9 Investigator ever be assigned to more than 20% of GS-11 work during any three-month period.

L. W. Gilman

Distribution: B

A-122 - A-129

UNITED STATES GOVERNMENT

Memorandum

SW 50/119-P

TO : District Directors, Southwest Region DATE: November 25, 1963

FROM : L. W. Gilman, Associate Deputy Regional Commissioner
Operations, Southwest Region

SUBJECT: Investigative Work Assignments

Reference is made to my memorandum of November 14, 1963, file SW 71/19-P, relating to the subject matter.

In order that an effective control may be maintained with reference to the performance of work by GS-9 investigators at a GS-11 level, the supervisory officer of each such GS-9 investigator, at the close of the month, shall note on the Form G-22.12c (Individual Hour Employment Record) his estimate of the percentage of GS-11 level work performed by the GS-9 investigator during the month. The Form G-22.12c will be initialed by the supervisor. The matter of discussing this percentage with the individual investigator is left to the discretion of the supervisory officer. If such discussion is held, however, the Form G-22.12c should reflect that action.

This procedure is effective commencing with the Forms G-22.12c submitted for the month of November 1963.

L. W. Gilman

UNITED STATES GOVERNMENT

Memorandum

TO : District Directors
Southwest Region

IN REPLY REFER TO: SW 71/19-P
MAY 1 1964

FROM : L. W. Gilman, Associate Deputy Regional Commissioner, Operations, Southwest Region

SUBJECT: SW 71/19-P, November 14, 1963, and SW 50/119-P, November 26, 1963; Investigative Work Assignments

(3)

The above-referenced memoranda sets a maximum assignment of 20 per cent of GS-11 work to GS-9 investigators during any three-month period. It specifies recording on Form G-22.12c (Individual Hour Employment Record) the actual percentage of such work performed.

The 20 per cent maximum set as indicated by the use of the recording form is a time limitation. Any other interpretation could result in a predominance of time expended on GS-11 work by GS-9 investigators, even with a minimum of such cases assigned. It follows that the limited time so allocated will, in turn, influence the amount of GS-11 case work assigned to GS-9 investigators.

L. W. Gilman

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(ED. 4-23-71)

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U. S. DIST. COURT
S. D. OF N. Y.

11 I.D.

A-131

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

637.2
DATE:

TO : Associate Deputy Regional Commissioners
Management, SERO, NERO, SWRO, NWRO

FROM : E. A. Loughran, Associate Commissioner
Management

SUBJECT: Classification of General Investigator positions--use of the "majority ... substantial time" concepts.

Recently, the Service requested that the Department seek clarification of the Civil Service Commission's policy on the classification of positions which are mixed as to grade. The reasons for this inquiry were, for the most part, differing decisions received from the various regions of the Commission on classification appeals of General Investigator positions. Until recently, decisions on classification appeals made by the Commission were based on the highest level of work performed over a preponderance of time or, as it has become more commonly known, the "majority of time rule." Recently, however, the Dallas Region of the Civil Service Commission has applied the "substantial proportion of time" rule in a decision on a General Investigator's appeal, i. e., they have ruled that in certain situations, less than a majority of time need be spent on higher level work to warrant reclassification to the higher grade.

In an effort to have uniform application of these concepts, we are attaching the Department's letter to the Civil Service Commission and the Commission's response on this subject. You will note that the Commission has outlined proper uses of both of these concepts under different circumstances. It is felt that similar situations may exist within each of the regions and, therefore, should be considered in future evaluations and recommendations for all positions within the General Investigator occupation.

With regard to situations where the majority rule would be appropriate, special care should be taken to insure that, insofar that it is practicable, assignments are made consistent with the grade of the investigator and his position.

If there are any questions regarding the application of either of these rules that are not answered by the attached correspondence, please submit them to this office.

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OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-107

A-132

UNITED STATES GOVERNMENT

Memorandum

TO : District Directors except Anchorage; Officers in Charge at Hammond, Milwaukee, St. Louis and Spokane

FROM : Harold E. Hulsing, Associate Deputy Regional Commissioner, Management, St. Paul, Minnesota

SUBJECT: Survey of Investigative Work

USA 33s - 475
(ED. 4-23-71)

PLAINTIFFS
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

12 I.D.

FPI-MI—2-2-73-10M-8753

The Civil Service Commission in recent rulings has in some cases used a "substantial" rather than a "majority" of time as grade controlling for investigative jobs, where circumstances, such as geographical area, precluded assignment of all of the higher grade duties in one position. This could, in some few instances, affect investigative grades in the region. To decide whether some jobs will be affected, we are asking that you make a careful study of investigative work being done in your area.

Please survey the work being done by your GS-9 and GS-11 Investigators. If some are performing higher level duties (over 20%) than described for their grade, furnish the following information:

A. Name of officer

B. Period during which higher level duties have been performed and percentage of time devoted to such duties. Cover the last one-year period, or less if an employee has been assigned for less than one year.

C. Detailed statement of these duties with reference to cases handled, etc.

D. Reason why these duties have not been assigned to higher graded officers, i.e., need for such assignments due to geographical areas or absence of higher level positions.

Please submit your findings on or before September 10, 1968. We will audit jobs which seem to include higher level duties with the recent Civil Service Commission statements in mind.

Harold E. Hulsing

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A-133

USA 33s - 475
(ED. 4-23-71)

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U. S. DIST. COURT
S. D. OF N. Y.

13 I.D.

FPI-MI—2-2-73-10M-8753

Mr. John D. Glasheen
Chief, Classification Appeals Office
U. S. Civil Service Commission
1900 E. Street, N. W.
Washington, D. C. 20415

Dear Mr. Glasheen:

This is in reference to your letter of March 14, 1968, File ICA:APP and my reply of May 2, 1968 concerning my request for re-opening and reconsideration of my position classification appeal, which was denied by your San Francisco Region.

For further consideration of my pending appeal there is attached hereto a copy of letter dated March 26, 1968 from Thomas W. Dodds, Personnel Officer, Southwest Region, U. S. Immigration and Naturalization Service to J. N. Benvenuto, Personnel Officer, Central Office, U. S. Immigration and Naturalization Service.

This letter relates to the pending appeal of Mr. George Barnitt, General Investigator at this office. I enclose this letter since it also relates to my case in that an explanation is made as to the procedure followed by U. S. Immigration and Naturalization Service relative to the survey conducted at the Los Angeles District Office to determine whether or not Investigators were performing duties at the GS-12 non-supervisory level. As you are aware the individual investigators at this office, that were not reclassified, were never notified as to the procedure followed. Since this letter outlines the norm followed in the reclassification survey I feel that I should be permitted to comment on certain statements in the referenced letter.

As standard operating procedure leave schedules are usually completed in January for the entire calendar year. As such I was on scheduled annual leave at the time the survey was conducted at this office. There was no advance notice as to the number of days the survey team intended to operate at this office. The survey team was at this office from February 27 to March 2, 1967, a total of four working days. At the time of the survey there were approximately 26 GS-11 investigators at this office. No further survey has been conducted at this office since the afore-mentioned survey.

Mr. Dodds' letter states in part "Any Investigator who believed he was and had been performing duties at the GS-12 level were accorded an opportunity for an interview and to present case work, time records and supporting activities, etc., in their behalf."

In connection with the above quoted portion of Mr. Dodds' letter I wish to again point out the following:

(1) I was on authorized annual leave at the time of the survey. I did not designate any other individual to present my case to the survey team. I was never given an opportunity to present my case work.

(2) The time records were available for inspection for the proceeding 12 months and were and are in the custody of the Assistant District Director for Investigations at this office.

(3) There is apparently no ready explanation as to what constitutes "supporting activities, etc" since the survey was concerned with case work it is difficult to determine what activities would fall in this classification.

Now let us consider the results of the survey. Mr. Dodd in his letter of March 8, 1967 recommended that Investigators Barnes and Pyeatt be reclassified to GS-12 investigators based on the result of the survey. He also indicated that the following officers qualified in the GS-12 category as to the following percentages:

Busselle	-	10%
Chandler	-	22%
Deckard	-	20%
Healey	-	20%
Lindsey	-	15%
McGinnis	-	15%
Mitchell	-	20%
Moe	-	20%
Mulley	-	5%
Sallee	-	20%
Smith	-	25%
Westberry	-	15%

As a result of Mr. Dodds' letter the following reclassifications to GS-12 non-supervisory investigators were made:

May 7, 1967	-	Barnes and Pyeatt
June 4, 1967	-	Chandler and Smith
June 26, 1967	-	Busselle, Deckard, Lindsey, McGinnis, Mitchell, Moe, Sallee and Westberry.

Investigator Mully was not upgraded. Mr. Dodd stated in his letter that he interviewed 26 GS-11 investigators at this office. He inadvertently listed Investigator Healey as a GS-11 investigator but actually he was a GS-9 at the time of the survey and was subsequently upgraded to GS-11 in July of 1967.

Records on file at this office and in the custody of the Assistant District Director for Investigations concerning the Form G22.12, Individual Employment Record, Investigations Activity covering the months of October, November and December 1966 and January, and February 1967 indicate the following percentages of investigative work in the Criminal, Immoral and Narcotic Category:

Busselle	-	15%
Chandler	-	58%
Lindsey	-	67%
Westberry	-	51%
Drabinski	-	42%

Continuing with the results of the survey there is attached to this letter a copy of the organizational chart relating to the Investigations Branch - Los Angeles District Office - dated September 11, 1967. This is attached for your information. On February 11, 1968 Investigators Boehm, Dougherty, Egan and Genoway were reclassified to GS-12 investigators. It is to be noted that these four investigators are not mentioned in Mr. Dodds letter concerning the results of the survey and the attached organizational chart does not indicate that these officers are in supervisory positions. This organizational chart was current and correct at the time the aforementioned 4 investigators were reclassified. They did not come off of the U. S. Immigration and Naturalization Service promotional list and the method used in this selection remains a mystery. These officers did not request or receive a desk audit of their positions prior to their reclassification.

As previously stated the survey team, consisting of Mr. Dodds and Mr. Chandler, were at this office for a period of four working days. There were approximately 26 GS-11 investigators interviewed at this office at the time of the survey. I leave to your judgement the number of files these two individuals were able to read, digest the contents of, and make a determination as to whether or not they qualified in the GS-12 investigative category. Mr. Dodd explained that the survey team examined time records. I submit that if this was done there was some sort of error in their analysis since my percentages for the period under consideration exceeded that of Investigator Busselle who was reclassified to GS-12 based on the results of the survey. With the permission of the Assistant District Director for Investigations at this office these time records have been retained in excess of the ordinary one year period and they are on file and available for your inspection.

Subsequent to the survey at this office I made inquiry of my supervisory officer as to the procedure to be followed in obtaining an interview and presenting my case load record for consideration in connection with the survey that was conducted at this office. I was advised to proceed through official channels and accordingly I submitted a request to the Central Office of this Service to the effect that I be granted an interview and that my case load and relating investigative manhours be considered. I explained that at the time of the survey I was on authorized annual leave and not available for interview by the survey team. There followed a delay of some time and under date of August 7, 1967 I was advised that a review of the records did not justify reclassification to GS-12 investigator, and if for any reason I did not agree with their findings I could appeal their decision to the San Francisco Region of the U. S. Civil Service Commission. I followed their suggestion and on October 17, 1967 presented the facts to the staff member that desk audited my position and I was informed by him that the decision of U. S. Immigration and Naturalization Service relative to the results of the survey conducted at this office that resulted in the reclassification of GS-11 investigators to GS-12 is not appealable to the U. S. Civil Service Commission.

I have been advised by the custodian of the records of Form G22.12, Individual Employment Record, Investigation Activity, submitted monthly by each investigator, and which serves as a breakdown by categories as to the number of investigative manhours worked by each individual investigator, that these records at this office were not reviewed by the survey team, were not reviewed by your staff member that conducted my desk audit and were not reviewed by the Central Office of this Service. They are available for inspection and date back to October of 1966.

To date I have not received any explanation by any member of this Service as to why I was not accorded an interview in connection with the survey; I have not had any explanation as to how my claim of doing in excess of 60% GS-12 work was overcome; I have had no explanation as to why the investigative work records at this office were not examined in connection with my 60% claim and I have had conflicting statements as to the procedure to be followed in overcoming this apparent act of discrimination. To further explain my situation I am attaching a copy of the letter I received from U. S. Immigration and Naturalization Service dated December 6, 1967 wherein it is stated that the decision of your San Francisco office is final and precludes further action by U. S. Immigration and Naturalization Service.

I have been associated with U. S. Immigration and Naturalization Service for in excess of 26 years. I have followed closely all directives relating to the merit system as explained by publications of the U. S. Civil Service Commission. I find it hard to believe that a survey would be conducted and simply because an officer was absent on authorized leave he would be eliminated from consideration. To further compound the tragedy of a situation of this nature repeated requests for consideration are explained away in a deluge of

vague and conflicting rules, regulations and opinions and no effort is made to correct an apparent wrong. I sincerely believe that this whole procedure from the manner in which the survey was conducted, the reclassification of investigators that followed, the method used in determining the reclassification formula and the avenues opened for redress should be reexamined and reviewed.

I do not believe it is asking too much of this Service to advise me as to why I was not interviewed; to advise me and the other investigators involved as to the yardstick used in arriving at their conclusions; to inform me as to the appealable procedures as to their conclusions and to furnish some sort of analysis as to results of their survey.

I find it hard to believe that a system as used by this Service wherein case load records are maintained for a period of only two months can be used as a yardstick in determining reclassification procedures. I also find it hard to believe that a survey conducted in February of 1967 would result in a reclassification of four investigators in February of 1968 especially since these four investigators were not mentioned in the results of the survey. I do not believe it was ever the intent of the merit system that reclassification was to be based on the complexity of a particular file that an investigator happened to be working on a particular day and that past records were to be pushed aside in deferrence to expediency of newly formulated ground rules.

It is respectfully requested that you make a full and complete review of the material I have submitted in connection with my appeal. Time records relating to the investigators that were reclassified and my time records are available for your review to determine the accuracy of my statements.

It is also respectfully requested that if your decision as to my appeal is in the negative that I be furnished detailed answers to the questions I have raised in connection with this appeal. I do not feel that this is too much to ask of your office in view of the fact that there appear to be areas of discrimination, misinterpretation, apparent disregard for established U. S. Civil Service procedures and an unfavorable reflection of the merit system under which we serve in connection with this whole matter.

Sincerely,

Erwin W. Drabinski

USA 33s - 475
(ED. 4-23-71)

PLAINTIFFS
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

14 I.D.

FPI-MI—2-2-73-10M-8753

A-138

Mr. Edward Kevorkjian
National Delegate
Lodge 1917, American Federation
of Government Employees, AFL-CIO
P.O. Box 604, Church Street Station
New York, New York 10008

Dear Mr. Kevorkjian:

We have completed a careful review of the brief transmitted with your letter of December 1, 1967, requesting reconsideration of the Commission's adverse decisions on the classification appeals of GS-11 Investigators at New York City.

We are unable to find in this document any justification for concluding that previous decisions on these appeals were erroneous. The major emphasis in your brief is the contention that the Immigration and Naturalization Service, by a process you refer to as "Overload of Cases Assigned," has contrived to dilute GS-12 level work assigned to GS-11 Investigators to prevent justified reclassifications. You maintain that each Investigator is now carrying a workload of 45 to 50 cases. You note that as cases arise or are created they are assigned to individual Investigators rather than being held in abeyance in an unassigned pool. You maintain that this practice dilutes the assignment of the GS-11 Investigators and precludes recognition of the positions at the GS-12 level.

We cannot see how the assignment practice followed by the Immigration and Naturalization Service alters in any way the difficulty level of the cases assigned. It seems to us that the workload will contain the same relative percentages of GS-12 and GS-11 cases regardless of whether it is assigned immediately upon receipt or held in abeyance for future assignment.

We do not agree that the existing situation at New York justifies a departure from the Commission's general rule for classifying mixed-grade positions and the Commission has not authorized any departure from this general rule in classifying Investigator positions in Los Angeles. It is apparently true that Investigators at that location who had been spending less than a predominance of

their time on GS-12 cases were promoted to GS-12. We understand, however, that their promotions were based on the assignment of additional GS-12 work.

The Immigration and Naturalization Service rather than the Commission controls the assignments of its Investigators. In adjudicating appeals the Commission must evaluate the work assigned. It cannot change assignments and upgrade positions based on the changed assignments as can the Service.

Sincerely yours,

JDG

John D. Glasheen
Chief, Classification
Appeals Office

cc:
Mr. E. A. Loughran
Associate Commissioner, Management
Immigration & Naturalization Service
Department of Justice
Washington, D. C. 20536

Director, New York Region
U.S. Civil Service Commission

ICA:JDGlasheen:yl 2-16-68

FEB 19 1968
BY M & C UNIT

PLAINTIFFS EXHIBIT 15

November 13, 1967

Mr. L.H. Baer
Regional Director
U.S. Civil Service Commission
New York Region
220 East 42nd Street
New York, New York 10017

Dear Sir:

The undersigned officers, employed by the U.S. Immigration and Naturalization Service, Investigations, have been notified that your Mr. S. Friedman will conduct a desk audit on November 15, 1967 at 20 West Broadway, New York City.

This communication is officially submitted asserting that U.S. Immigration and Naturalization management has improperly, unethically, and deliberately taken an adverse action subsequent to the date we requested a desk audit and for the sole purpose of insuring the failure of our appeal.

Each of us has supervised officers in Grade GS-11 who, after a desk audit, were found to be performing work at the GS-12 level and have been upgraded accordingly. The first group of investigators were notified by your office on February 1, 1967 of their higher grade performance and on February 20, 1967 they were removed from our supervision and placed under the direction of a GS 13. The second group of investigators were notified of their successful appeal by your office on June 9, 1967. On June 14, 1967 (Mr. Kaye on June 20, 1967) we requested a desk audit. On June 26, 1967, the latter group of officers were also removed from our supervision.

This adverse action placed the two Chiefs (GS-13) in the impossible position of not only executing their own already overburdened functions, but heaped upon them the additional requirement that they directly supervise about 1,100 cases and the new group of GS-12 Investigators--a task that is humanely impossible.

It is respectfully requested that the U.S. Civil Service Commission carefully review the question of this deliberate change of

our duties and make a finding that an "adverse action" has taken place in our regard. We are prepared to prove on November 15, 1967 that this deliberate removal of the GS-12 Investigators from our supervision was conceived and effectuated as a defensive measure for the sole purpose of preventing a true audit and consequent upgrading and was executed by management to improperly influence the audit decision by the Civil Service Commission.

If this adverse action appeal is properly evaluated and adjudicated, then the second phase--the desk audit--must result in only one conclusion--one that must be favorable to the undersigned appellants.

Respectfully submitted,

Edward J. Farley

John Graziano

Louis Kaye

Max Weinman

A-142

DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
MEMO BUILDING 320 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

IN REPLY PLEASE REFER TO

FYE:rp

January 31, 1968

YOUR REFERENCE

Mr. Max Weinman
497 Westminster Road
Brooklyn, New York 11218

Dear Mr. Weinman:

We have been informed by the Associate Commissioner, Management, Immigration and Naturalization Service, Washington, D. C., that you have been promoted. Since you no longer occupy the position whose classification you appealed under Title 5 of the U. S. Code, (Classification Act of 1949), we are cancelling your appeal. Your adverse action appeal is also being cancelled.

Sincerely yours,

John E. Sauerhoff, Jr.
Chief, Evaluation Branch

c.c. Associate Commissioner, Management
U. S. Department of Justice
Immigration & Naturalization Service
Washington, D. C. 20536

DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING 220 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

A-143

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

USA 33s - 475
(ED. 4-23-71)

PLAINTIFFS
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

16 I.D.

FPI-MI—2-2-73-10M-8759

Mr. Joseph A. Farrell
U.S. Immigration and Naturalization
Service
20 West Broadway
New York, N.Y. 10008

Dear Mr. Farrell:

This is our letter of decision on the appeal submitted by you and 53 other General Investigators GS-1810-11 employed in the New York District Office of the Immigration and Naturalization Service. These appeals were contained in four letters submitted at varying times by groups of employees ranging in size from 2 to 22.

As you know we made a site audit of your position so that we could determine the nature and complexity of the cases assigned to you. We reviewed the results of this audit and the information submitted by you, your co-appellants and your agency, and evaluated it against the Supplement to the Position Classification Standards for the General Investigating Series, GS-1810-0 for the Positions in the Immigration and Naturalization Service, Department of Justice. This Supplement was approved by the Civil Service Commission as an extension of the Commission's position classification standards for the General Investigator Series, GS-1810-0.

The letters of appeal with which you are associated claim higher grades because the investigative work performed is of GS-12 caliber, and secondly because positions in other investigative agencies with similar or lesser investigative responsibilities have been assigned GS-12 grades.

We do not compare one position against another in the same or another agency to determine the proper classification. The Classification Act of 1949 which governs the classification of positions requires that "each department shall place each position under its jurisdiction----------in its appropriate class and grade in conformance with standards published by the Commission." We must therefore determine the classification of your position by comparing it against the aforementioned standards.

In your appeal you question the propriety of titling your present job as General Investigator rather than Criminal Investigator. The type of work which you do is specifically covered by the standards for the General Investigating Series. Therefore we can find no basis for changing your title.

The standards for the General Investigating Series point out that "the basic knowledges and skills required by investigators at all levels are essentially the same. All investigators must have a good knowledge of all immigration and nationality laws, and specific knowledge of those directly relating to violations thereunder, as well as specific knowledge of the criminal statutes relating to the enforcement of the immigration and nationality laws. They must keep currently informed of precedent decisions, both judicial and administrative, and of Service policy having a bearing on the enforcement of these laws. They must know and be able to determine when a prima facie case is present for the initiation of either administrative or judicial proceedings within Service jurisdiction. They must be able to analyze cases and plan the course of investigations; adapt methods, techniques, and procedures to meet unusual situations or conditions; be skilled in conducting interrogations, eliciting information from violators or reluctant witnesses and evaluating reliability and credibility of witnesses; in examining records, documents, and other evidence to detect fraud; in tracing and uncovering evidence of assumed or

concealed identities; in reporting facts and distinguishing between relevant and extraneous information; in techniques of unarmed self defense; in the use of firearms; in undercover and surveillance work and in dealing with emergency situations. They must possess ingenuity and resourcefulness in recognizing, developing, and exhausting all leads in a case."

The grades assigned to positions depend upon the types of assignments carried out. The complexity and delicacy; impact on national security, social welfare or economy; scope; and importance of the individuals involved affect the grade of the position. Thus, at the GS-11 levels, assignments "involve multiple issues; have a potential for developing into a number of individual cases; consistently require unusual skill and ingenuity in uncovering and developing facts; and, because of the seriousness of the violations or actions involved, or the prominence of the individuals involved, are either (a) greater in their effect as deterrents to further violations, or (b) have a greater protective value to the economy and security of the country, than the investigative assignments at the next lower level."

At the GS-12 level assignments "are relatively limited in volume------are of the "most complex and delicate nature, where the issues involved have a grave impact on the national security; involve important political, social, or similar implications; or involve persons whose conviction would be of material benefit to the nation's economy, social welfare, or security. The nature of the case assignments is such that the investigations are nationwide in scope, or where less than nationwide, are particularly complex, or the case is extremely important from the standpoint of potential effect on Service-wide operations." At this grade level investigators "must be skillful in organizing and planning large-scale investigations, and coordinating multiple investigations conducted at many points within the United States and overseas."

Many positions contain responsibilities which are classified at different grade levels. In assigning the final grade to such a position, we classify all the significant responsibilities to their appropriate levels, basing the final determination on the level of the duties which occupy a majority of the employee's time. Your position has in it a mixture of cases which are allocable to the GS-11 and GS-12 levels. Although some of your cases involve elements of assignments found at the GS-12 level, e.g., "complexity, delicacy, and impact on the national economy, soical welfare, or security," we did not find that they occupied a majority of your time.

It is our decision that your position is properly classified as General Investigator, GS-1810-11.

Sincerely yours,

L. H. Baer
REGIONAL DIRECTOR

cc: Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D.C. 20536

Mr. Joseph A. Farrell

A-147

ADDRESS:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING 220 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

USA 33s - 475
(ED. 4-23-71)

PLAINTIFFS
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

17 I.O.

FPI-MI—2-2-73-10M-8753

Mr. Denton J. Kerns
U.S. Immigration and Naturalization Service
20 West Broadway
New York, N.Y. 10007

Dear Mr. Kerns:

This is our letter of decision on the appeal submitted by you and 51 other General Investigators GS-1810-11 employed in the New York District Office of the Immigration and Naturalization Service. These appeals were contained in four letters submitted at varying times by groups of employees ranging in size from 2 to 22.

As you know we made a site audit of your position so that we could determine the nature and complexity of the cases assigned to you. We reviewed the results of this audit and the information submitted by you, your co-appellants and your agency, and evaluated it against the Supplement to the Position Classification Standards for the General Investigating Series, GS-1810-0 for the Positions in the Immigration and Naturalization Service, Department of Justice. This Supplement was approved by the Civil Service Commission as an extension of the Commission's position classification standards for the General Investigator Series, GS-1810-0.

The letters of appeal with which you are associated claim higher grades because the investigative work performed is of GS-12 caliber and secondly because positions in other investigative agencies with similar or lesser investigative responsibilities have been assigned GS-12 grades.

We do not [illegible] position against another in the [illegible] or another agency to determine the proper classification. The Classification Act of 1949 which governs the classification of positions requires that "each department shall place each position under its jurisdiction---------- in its appropriate class and grade in conformance with standards published by the Commission." We must therefore determine the classification of your position by comparing it against the above-mentioned standards.

In your appeal you question the propriety of titling your present job as that of Investigator rather than Criminal Investigator. The type of work which you do is specifically covered in the standards for the General Investigating Series. Therefore we can find no basis for changing your title.

The standards for the General Investigating Series point out that "the basic knowledges and skills required by investigators at all levels are essentially the same. All investigators must have a good knowledge of all immigration and nationality laws, and specific knowledge of those directly relating to violations thereunder, as well as specific knowledge of the criminal statutes relating to the enforcement of the immigration and nationality laws. They must [illegible] currently informed on precedent decisions, both judicial and administrative, [illegible] service policy having a bearing on the enforcement of these laws. They must know and be able to [illegible] when such case is present for the administrative or judicial proceedings [illegible]. They must be able to analyze [illegible] investigations; adapt methods and techniques to meet unusual situations [illegible] conducting investigations, [illegible] hostile or reluctant witnesses and [illegible] credibility of witnesses, in examining [illegible] and other evidence to detect fraud, in preparing evidence of assumed [illegible]

concealed identities; in reporting facts and distinguishing between relevant and extraneous information; in techniques of unarmed self defense; in the use of firearms; in undercover and surveillance work and in dealing with emergency situations. They must possess ingenuity and resourcefulness in recognizing, developing, and exhausting all leads in a case."

The grades assigned to positions depend upon the types of assignments carried out. The complexity and delicacy; impact on national security, social welfare or economy; scope; and importance of the individuals involved affect the grade of the position. Thus, at the GS-11 levels, assignments "involve multiple issues; have a potential for developing into a number of individual cases; consistently require unusual skill and ingenuity in uncovering and developing facts; and, because of the seriousness of the violations or actions involved, or the prominence of the individuals involved, are either (a) greater in their effect as deterrents to further violations, or (b) have a greater protective value to the economy and security of the country, than the investigative assignments at the next lower level."

At the GS-12 level assignments "are relatively limited in volume------are of the "most complex and delicate nature, where the issues involved have a grave impact on the national security; involve important political, social, or similar implications; or involve persons whose conviction would be of material benefit to the nation's economy, social welfare, or security. The nature of the case assignments is such that the investigations are nationwide in scope, or where less than nationwide, are particularly complex, or the case is extremely important from the standpoint of potential effect on Service-wide operations." At this grade level investigators "must be skillful in organizing and planning large-scale investigations, and coordinating multiple investigations conducted at many points within the United States and overseas."

Many positions contain responsibilities which are classified at different grade levels. In assigning the final grade to such a position, we classify all the significant responsibilities to their appropriate levels, basing the final determination on the level of the duties which occupy a majority of the employee's time. Your position has in it a mixture of cases which are allocable to the GS-11 and GS-12 levels. Although some of your cases involve elements of assignments found at the GS-12 level, e.g., "complexity, delicacy, and impact on the national economy, soical welfare, or security," we did not find that they occupied a majority of your time.

It is our decision that your position is properly classified as General Investigator, GS-1810-11.

Sincerely yours,

L. H. Baer
REGIONAL DIRECTOR

cc: Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D.C. 20536

U.S. CIVIL SERVICE COMMISSION
[illegible] EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

A-151

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

USA 33s - 475
(ED. 4-23-71)

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U. S. DIST. COURT
S. D. OF N. Y.

18 I.D.

FPI-MI—2-2-73-10M-8753

Mr. Max Gottlieb
U.S. Immigration and Naturalization
Service
20 West Broadway
New York, N.Y. 10008

Dear Mr. Gottlieb:

This is our letter of decision on the appeal submitted by you and 53 other General Investigators GS-1810-11 employed in the New York District Office of the Immigration and Naturalization Service. These appeals were contained in four letters submitted at varying times by groups of employees ranging in size from 2 to 22.

As you know we made a site audit of your position so that we could determine the nature and complexity of the cases assigned to you. We reviewed the results of this audit and the information submitted by you, your co-appellants and your agency, and evaluated it against the Supplement to the Position Classification Standards for the General Investigating Series, GS-1810-0 for the Positions in the Immigration and Naturalization Service, Department of Justice. This Supplement was approved by the Civil Service Commission as an extension of the Commission's position classification standards for the General Investigator Series, GS-1810-0.

The letters of appeal with which you are associated claim higher grades because the investigative work performed is of GS-12 caliber, and secondly because positions in other investigative agencies with similar or lesser investigative responsibilities have been assigned GS-12 grades.

We do not compare one position against another in the same or another agency to determine the proper classification. The Classification Act of 1949 which governs the classification of positions requires that "each department shall place each position under its jurisdiction----------in its appropriate class and grade in conformance with standards published by the Commission." We must therefore determine the classification of your position by comparing it against the aforementioned standards.

In your appeal you question the propriety of titling your present job as General Investigator rather than Criminal Investigator. The type of work which you do is specifically covered in the standards for the General Investigating Series. Therefore we can find no basis for changing your title.

The standards for the General Investigating Series point out that "the basic knowledges and skills required by investigators at all levels are essentially the same. All investigators must have a good knowledge of all immigration and nationality laws, and specific knowledge of those directly relating to violations thereunder, as well as specific knowledge of the criminal statutes relating to the enforcement of the immigration and nationality laws. They must keep currently informed of precedent decisions, both judicial and administrative, and of Service policy having a bearing on the enforcement of these laws. They must know and be able to determine when a prima facie case is present for the initiation of either administrative or judicial proceedings within Service jurisdiction. They must be able to analyze cases and plan the course of investigations; adapt methods, techniques, and procedures to meet unusual situations or conditions; be skilled in conducting interrogations, eliciting information from violators or reluctant witnesses and evaluating reliability and credibility of witnesses; in examining records, documents, and other evidence to detect fraud; in tracing and uncovering evidence of assumed or

concealed identities; in reporting facts and distinguishing between relevant and extraneous information; in techniques of unarmed self defense; in the use of firearms; in undercover and surveillance work and in dealing with emergency situations. They must possess ingenuity and resourcefulness in recognizing, developing, and exhausting all leads in a case."

The grades assigned to positions depend upon the types of assignments carried out. The complexity and delicacy; impact on national security, social welfare or economy; scope; and importance of the individuals involved affect the grade of the position. Thus, at the GS-11 levels, assignments "involve multiple issues; have a potential for developing into a number of individual cases; consistently require unusual skill and ingenuity in uncovering and developing facts; and, because of the seriousness of the violations or actions involved, or the prominence of the individuals involved, are either (a) greater in their effect as deterrents to further violations, or (b) have a greater protective value to the economy and security of the country, than the investigative assignments at the next lower level."

At the GS-12 level assignments "are relatively limited in volume------are of the "most complex and delicate nature, where the issues involved have a grave impact on the national security; involve important political, social, or similar implications; or involve persons whose conviction would be of material benefit to the nation's economy, social welfare, or security. The nature of the case assignments is such that the investigations are nationwide in scope, or where less than nationwide, are particularly complex, or the case is extremely important from the standpoint of potential effect on Service-wide operations." At this grade level investigators "must be skillful in organizing and planning large-scale investigations, and coordinating multiple investigations conducted at many points within the United States and overseas."

We reviewed with you the cases assigned to you during the last two years so we could evaluate their complexity, delicacy, and impact on national economy, social welfare or security. Your assignments have involved widespread conspiracies in which attorneys are implicated and it is difficult to secure evidence for prosecution. The cases often involve issues potentially detrimental to basic operations of the immigration program and sometimes have ramifications reaching into other countries or other parts of the United States. These factors require careful and delicate handling and coordination with other aspects of immigration activity.

Your assignments have the characteristics described as typical of the GS-12 grade level. The widespread conspiratorial nature of the case loads, the responsibility for coordinating multiple investigating activities, the impact on service wide operations, the exceptional investigative resourcefulness and ingenuity required, and the effect on the national economy make GS-12 the proper grade.

It is our decision that your position should be classified as General Investigator GS-1810-12.

Sincerely yours,

L. H. Baer
REGIONAL DIRECTOR

cc: Associate Commissioner, Management
U.S. Department of Justice
Immigration and Naturalization Service
Washington, D.C. 20536

USA 33s - 475
(ED. 4-23-71)

PLAINTIFFS'
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
19 I.D.

A-155

ADDRESS
DIRECTOR NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
FEDERAL BUILDING 26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10007

FPI-MI—2-2-73-10M-8785

Mr. Sidney Baron
99-04 57th Avenue
Corona, L. I., New York 11368

Dear Mr. Baron:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Although your appeal was submitted as one of a group we have considered it individually and this letter is responsive to your particular situation.

Our decision is based on a review of the material submitted by you and your agency, consideration of the information secured during a work audit of your position, and a comparison of your duties and responsibilities against the Civil Service Commission's standards and the supplement to the standards of the Immigration and Naturalization Service for the General Investigating Series, GS-1810.

Essentially, the grade of an investigator's position depends on the level of difficulty of the cases assigned and their scope. The grade is not determined by the ability of an investigator to carry out more difficult assignments, or his length of service. We mention these points because they have been raised by some investigators during our discussions with them. We are commenting also on the complaint of some of the appellants with whom you are associated that the agency attempts to assign the more difficult and complex cases considered to be of GS-12 caliber (where it can be determined by supervisors) to GS-12 investigators and that when a case assigned to a GS-11 investigator appears to involve fraud or subversive activity or gives indication of developing into a GS-12 caliber case, it is taken away and assigned to a GS-12 investigator.

Your agency has the right, which goes with the responsibility for managing its resources in mission accomplishment, to assign work as it deems best. In this connection management's continuing objective should be to have each position contain as much of its grade controlling responsibilities as possible considering the work situation. GS-12 investigators, to the fullest extent, should be utilized in GS-12 work.

The Civil Service Commission cannot dictate to your agency how it should organize its work or how it should make assignments to individual investigators. The Commission in its appellate capacity must limit its jurisdiction to determining the classification which results from the agency's decision on work organization and assignment. We determine the classification by assigning a grade to the principal duties and responsibilities, i.e., those that take up at least a majority of the employee's working time (at least 51 percent).

Our task in ruling on your appeal is to ascertain 1) the highest grade level of work assigned to you, and 2) the percentage of your working time which it occupies. This means that if you are performing GS-12 work your position will not be classified at that grade level unless it occupies a majority of your time. There are exceptions to this rule in certain situations such as you have pointed out in other district offices where it is not feasible to set up specialized positions at GS-12 to which available GS-12 work can be assigned. The exceptions to not negate the general rule stated above.

The criteria for classifying investigative assignments at the GS-11 level are described in the standards as follows: they are of the most complex and delicate nature; the issues involved have a grave impact on the national security; involve important political, social or similar implications; or persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case may be nationwide or particularly complex, or extremely important from the standpoint of potential effect on service-wide operations.

The fact that there may be congressional or central office interest in a particular case does not automatically place it in the GS-12 category. Neither is it placed in that category if the investigation includes interviews with members of a foreign mission or requires securing auxiliary information from an American consul overseas or a foreign consulate. The determining factor is still the character and complexity of the investigation and its broad implications.

The cases you have presented to illustrate your GS-12 assignments do not in our judgment meet the characteristics cited in the standards for that grade level. The occasional assignment of GS-12 type cases cannot be used as a basis for classifying your position to a higher grade.

It is our decision that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

L. H. Baer
Regional Director

c.c. Associate Commissioner, Management
Immigration and Naturalization Service
[illegible]

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

A-157

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USA 33a - 475
(ED. 4-23-71)

PLAINTIFFS' EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

20 I.D

TO : Assistant Regional Commissioner, Administrative Services, Burlington, Vermont

DATE

FROM : P. A. Esperdy, District Director
New York, New York

SUBJECT: Your NE 71/20.7 Pending; 1/21/69; Classification Appeal - Joseph A. Farrell, General Investigator GS-11

A review of Mr. Farrell's position reflected that all of the duties he performed since the last audit which was conducted at this office on February 21, 1968, fell squarely within the provisions of the job description for General Investigator GS-1810-11.

Mr. Farrell's currently assigned caseload consists totally of "fraud" type investigations, amounting to 39 cases. All of these cases were reviewed on January 30 and 31, 1969 by Supervisory Investigators Steve Greenman (GS-12) and Louis Kaye (GS-13), his first and second line Supervisors, respectively. Of these cases, 34 were definitely conceded by Mr. Farrell to be no higher than the GS-11 level. However, he claimed that five investigations of his current caseload were of the GS-12 variety. These cases were the matters of:

1.	Mavis Settle	A14 780 379
2.	Farrell Travel Agency	NYC 50/40.216
3.	Rae Feld	A14 334 958
4.	Theodore Hulbert	A14 334 959
5.	Washington Business Institute	NYC 214F 2-74.

The matter of Mavis Settle deals with a possible marriage fraud, which had never been developed beyond "GS-11" stage. During a supervisory review of this case on November 13, 1968, Mr. Greenman believed that with proper handling, this case could be developed into a GS-12 type matter and therefore directed Mr. Farrell to discontinue further investigative efforts on this assignment and to place a memorandum on the file showing work accomplished to that date so it could be referred to Mr. Kaye for reassignment. Mr. Farrell advised on January 30, 1969 that he was busy on other matters and did not have the opportunity to prepare the requested memorandum.

The matter of the Farrell Travel Agency deals with the allegation that the latter organization might be assisting aliens, in an illegal manner, to obtain Service benefits through encouraging the submission of fraudulent documents to obtain labor certifications. This investigation had never been developed beyond the GS-11 stage.

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However, because of its GS-12 potential, Investigator Farrell was also directed by Mr. Greenman on November 13, 1968 to place a memorandum on this file of the scope of investigation conducted to that date in the same manner as in the Settle case and return the file to Mr. Greenman. He explained that due to the urgency of "dual action" matters, he had been unable to write the required memorandum.

The last three cases cited above all deal with the allegation that the Washington Business Institute is falsifying attendance records of certain students in order to assist them in retaining their student status with this Service. These matters are no higher than a GS-11 type investigation.

Mr. Farrell also asserts that three cases taken from him on November 27, 1968 for reassignment pursuant to a directive of Mr. Greenman in connection with his supervisory review on November 13, 1968, were also of the GS-12 variety. These cases were:

1. George Chatzipetrakos A14 836 677
2. Dimitrios Panagopoulos A15 176 659
3. Sofia Panagiotis Wilson A13 880 675.

The above three cases dealt with a possible conspiracy to violate immigration laws through fraudulent marriage arrangements. Mr. Farrell's investigative efforts concerning these matters were not of the GS-12 character and since the cases in question did show GS-12 potential, they were taken from him with a view toward re-assignment to a GS-12.

Mr. Farrell claims further that the case of William F. Adcock, A12 081 433, an alleged attorney who practiced before this Service may have been disbarred and therefore unauthorized to practice before this Service, was of the GS-12 variety. Mr. Greenman discussed this investigation with Mr. Abe Spivack, Supervisory Investigator "GS-14" in the presence of Mr. Farrell on October 4, 1968 and Mr. Spivack directed that Mr. Farrell prepare a memorandum of work accomplished to that date and the matter would be reassigned. Mr. Greenman and Mr. Spivack believed that this investigation could definitely develop into the GS-12 category since Mr. Adcock apparently was involved in the procurement of extensions of temporary stay for his clients through false statements and also

assisted clients in obtaining labor certifications through submission of false documentation. Mr. Farrell's investigation to that date did not reflect GS-12 type efforts.

A review of all of the cases herein mentioned, fail to reflect that Mr. Farrell's investigative accomplishments were any higher than those of the GS-11 level. It should be noted that the cases taken from Mr. Farrell were of "mushrooming" characteristics, i. e. when first assigned they were of an individual nature, but thereafter showed spreading potential and at that time were recalled for reassignment to a higher grade investigator.

As regards the concluding paragraph of subject memorandum, Mr. Farrell read the official position description for General Investigator GS-1810.11 on January 29, 1969, but refused to sign it under item 12 as requested stating, "That my signing it may jeopardize my appeal for reclassification."

P. A. Esposito

A-160

UNITED STATES CIVIL SERVICE COMMISSION

Address:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
FEDERAL BUILDING, 26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10007

USA 33s - 475
(ED. 4-23-71)

PLAINTIFFS'
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
21 I.O.

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IMMIGRATION & NATZ SERV
PERSONNEL OFF

Mr. Joseph A. Farrell
40 Sylvia Lane
New Hyde Park, N.Y.

IPI-MI—2-2-73-10M-8753

Dear Mr. Farrell:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District office of the U.S. Immigration and Naturalization Service.

We have noted your statement that you are "now assigned a number of complex GS-12 level fraud investigations and that the New York Office of the Immigration and Naturalization Service will undoubtedly attempt to remove these cases from my responsibility in order to deny me my proper grade classification." You have not given us any specific information on the nature of these "complex GS-12 level fraud investigations" although we have requested from you summaries of these cases, dates when assigned and completed, and the number of hours spent on each such case.

We cannot dictate to your agency how and to whom it should assign cases. This is a responsibility which goes with managing its investigative work. Neither can we question your agency's desire to assign its work so that it utilizes its GS-12 investigators to the fullest extent on GS-12 level cases.

The District Director of your office has submitted a report on the cases assigned to you. From it we conclude that although some of your cases have the potential for developing into GS-12 type cases, your work on them has not yet materialized at that level. Because of their potential for GS-12 your supervisors have directed that you discontinue work on the cases so that they can be assigned to a GS-12 investigator. We cannot credit you with GS-12 cases when their GS-12 potential has not yet been realized and they have been taken away from you for reassignment to a GS-12 investigator. Consequently we saw no reason to delve further into these cases by a desk audit of your position. We are enclosing for your information a copy of the aforementioned report on your case assignment.

It is our decision that your position is properly classified as General Investigator, GS-1810-11.

Sincerely yours,

John E. Sauerhoff, Jr.
Chief,
Evaluation Branch

cc: Associate Commissioner,
Management
U.S. Department of Justice
Immigration & Naturalization Service
Washington, D.C. 20536

Enclosure

A-162

UNITED STATES DEPARTMENT

WASHINGTON, D.C. 20530

Address Reply to the Division Indicated and Refer to Initials and Number

USA 33s - 475
(ED. 4-23-71)

PLAINTIFFS' EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

22 I.D.

FPI-MI—2-2-73-10M-0753

Mr. Gilbert A. Schulkind
Director
Bureau of Inspections
U. S. Civil Service Commission
Washington, D. C.

Dear Mr. Schulkind:

I am writing to seek clarification of the Civil Service Commission's policy on the classification of positions which are mixed as to grade. The New York Region has applied the "majority of time" rule in deciding appeals from Immigration and Naturalization Service investigators, while the Dallas Region has applied the "substantial portion of time" rule. At a meeting in the Commission on March 27, 1968 and in his letter of April 2, 1968 to Mr. L. A. Loughran, Associate Commissioner, Management, Immigration and Naturalization Service, Mr. Glasheen stated that he saw no inconsistency between these actions, in that the mixed-grade policy is to be applied one way in one organizational context and another way in a different organizational framework.

I can but agree with the management concepts expressed on pages 24 and 25 of the Introductory Material to Position classification standards. I have no objection to the policy governing the classification of mixed-grade positions which follows, on pages 25 and 26. I realize that positions are not immutable. However, I do not agree with interpretations which, in effect, require classification decisions to be based on organizational ideals rather than facts. Such a requirement can seriously interfere with an agency's discharge of the position classification responsibilities placed on it by Chapter 51 of Title 5 of the United States Code and can have a deleterious effect on employee-management relations.

Consider, for example, the dilemma faced by an agency when, in evaluating a classification appeal, it finds that the appellant's actual duties and responsibilities which consume a substantial portion of his worktime support the grade for which he is appealing, but are present as the result of poor management practices. If it is determined that higher grade work is distributed too thinly among positions, should management correct the maldistribution prior to deciding the appeal or at some subsequent time?

A-163

APR 19 1966

As I understand the Commission's policy governing the classification of mixed-grade positions, it does not call for application of the "majority of time" concept to positions in larger units, where there is greater potential for specialization and selective assignment of work, and the "substantial portion of time" concept to positions in smaller units, where specialization and selective assignments are not as easily achieved. If an investigator in New York devotes a substantial amount of his worktime to grade GS-12 work, is his entitlement to GS-12 any less than that of an investigator in El Paso who spends no greater part of his worktime on GS-12 work?

These are not academic questions. You are, I'm sure, aware of the many accusations of foul play which have been leveled at the Department and the Immigration and Naturalization Service in connection with the numerous classification appeals of GS-11 investigators. Several of them were to the effect that the Service had reorganized work in a manner calculated to vitiate employees' appeals. Investigators in New York have complained about the application of the "majority" rule to their positions when they learned that the "substantial" rule was applied subsequently to similar positions elsewhere.

The Service proposes to issue to its regional offices instructions on the application of the mixed-grade policy. Inasmuch as there is considerable confusion about the policy, both in the Department and in the Service, I would appreciate your advice on it in order that we may ensure that the Service's instructions are correct and consistent with official Civil Service Commission policy.

Sincerely yours,

Kenneth J. Stallo
Director of Personnel

A-164

CERTIFIED MAIL RECEIPT NO. 104972.

USA 33 - 475
(ED. 4-23-71)

PLAINTIFFS'
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U. S. DIST. COURT
S. D. OF N. Y.

23 ID.

FPI-NI—2-2-73-10M-8753

ALEXANDER FLASTERSTEIN, Inve
Immigration & Naturalization
General Investigations Secti
20 West Broadway
New York, N.Y. 10007.

Ju

Mr. John D. Glasheen
Chief, Classification Appeals Office
U.S. Civil Service Commission
Washington D.C. 20415.

RE: RECONSIDERATION OF APPEALS OF:
INVESTIGATORS. IMMIGRATION & NATURALIZATION SERVICE

Dear Mr. Glasheen:

This is a submission of further information pertaining to reconsideration of my appeal for reclassification to GS-12.

I regret to have to state that your letter of June 9, 1967 which is addressed to me and which states"....., as well as discussion of your work with supervisory personnel in your organization" is an inaccuracy.

The Civil Service representative spoke to Mr. Martin Peters who happened to be Acting Chief of the General Investigations Section on the day inquiry was made of my "supervisory personnel" about my work. Mr. Peters has never supervised my cases and has no firsthand knowledge of my cases during the year. He is a man of great integrity who under the circumstances could only speak as to my general reputation as to my work. He could not evaluate the quality of my cases as he never reviewed them, never assigned them to me, or, as far as I know, has never even seen them during the year.

It must be made clear that there are two squads in the General Investigations Section. There is one Assistant Chief for each squad. Mr. Peters is an Assistant Chief of one squad; and Mr. Francis Johnson is the Assistant Chief of the other squad. The Chief of the General Investigations Section is Mr. HENRY WAGNER.

I AM IN MR. JOHNSON's SQUAD!!!! I do not work under the supervision of Mr. Peters. It was only perchance that on a particular day when Mr. Wagner and Mr. Johnson were on leave, that Mr. Peters was Acting Chief and the Civil Service repre-

sentative spoke only to him about my cases.

IT IS OF COURSE SHAMEFUL THAT A CAREER EMPLOYEE'S APPEAL SHOULD FAIL BECAUSE HIS SUPERVISORS WERE NEVER GIVEN AN OPPORTUNITY TO SPEAK UP FOR, OR EVEN AGAINST HIM!!!!

I therefore specifically ask that Mr. Johnson and Mr. Wagner be specifically asked by the Civil Service representative their evaluation of the cases I handled.

LET US AT LEAST DECIDE MY APPEAL ON TRUTH AND NOT ON THE INJUSTICE OF CLAIMING TO DO WHAT WAS NOT DONE.

I also wish again to direct attention in your appeal reconsideration to the fact that there are special circumstances in evaluating the percentage of the cases that I handled, that were GS-12 cases.

Almost three months of the year period being considered, consisted of:

1. From August 31, 1966 to Sept. 20, 1966 I was what is called an "aide" to Assistant Chief Johnson. This was covered in my discussion with my initial Civil Service interviewer. In essence, an "aide" is called on in the absence of the Assistant Chief to be the "Acting Assistant Chief." In short, the "aide" does GS-12 work.

2. From Sept. 21, 1966 to Nov. 20, 1966 I was on detail as an Acting Trial Attorney in the Trial Attorney Section. This work has since been classified GS-13 work and was classified GS-12 work when I did it. So for two months I did GS-13 work.

   For verification of this, and for evaluation of my work there, I refer you to my then supervisor, Mr. Vincent Sciano.

   As a Trial Attorney I handled work of GS-12 investigators, had them pursue more investigation when I deemed it needed, and presented the results of their investigations as an attorney for the Government to Special Inquiry Officers.

My point is that at the very least, I spent almost 3 months of the year's work involved in my possible reclassification, as an "aide" and as a Trial Attorney. I should get GS 12 "percentage credit" for this, or if deemed not so, then at least, subtract the 3 months from the year period involved in the determination of GS-12 work done by me.

Otherwise I get penalized for doing GS-12 work as "aide" and GS-13 work as a Trial Attorney. IF ONLY 9 MONTHS are considered, then it would appear that I AM EVEN CLOSER TO ANY PERCENTAGE DEEMED NEEDED BY THE CIVIL SERVICE COMMISSION FOR RECLASSIFICATION TO GS-12 THAN EVALUATED IN THE PAST.

I believe I have handled more of the most complex cases in the General Investigations Section than any other investigator in it. If so, it would appear that if there is GS-12 work in the section, as stated by the Civil Service Commission in its letter to me dated Feb. 1, 1967, I qualify for reclassification to GS-12 position.

If I do not, it means that all investigators in the General Investigations Section are not qualified for reclassification to GS-12, and are not getting the proper quality of cases so that they too can by excellent work attain GS-12 grade by promotion or reclassification, as was done in other sections on the same floor in the same Investigations Branch.

The blunt truth is that the investigators in General Investigations Section are equally qualified, and some of us, better qualified, to do the GS-12 work that led to reclassifaction and promotion to GS-12.

There are apparetnly no promotions forthcoming for GS-11 Investigators in the General Investigations Section, as promotions, and reclassifications also, are in other sections of the General Investigations Branch. Therefore, if the Civil Service Commission affirms its decision that my position is not reclassifiable to GS-12 we come to one unjust conclusion.

It means that all investigators in General Investigations Section have reached a dead end in their careers and that their cases are considered to be of inferior quality and consequently that they are inferior. This is an unsound, unjust management procedure that the Civil Service Commission should not countenance.

I wish to make it clear that I do not agree with the "percentage-GS-12-credit" approach the Civil Service Commission

takes as to reclassification. In the first place, it cannot be estimated by percentage as it is a question of quality of work. Therefore a mathematical percentage amount is a fiction that does not exist in fact, anywhere ----be it 51% or whatever number.

WHAT SHOULD DECIDE IS SIMPLY THE HIGHEST QUALITY OF THE WORK INVOLVED.

Proof of my viewpoint is that apparently, as best as I have been able to ascertain, the Immigration & Naturalization Service in California reclassified to GS-12 positions, investigators with as little as 15% and 21% and 26% of GS-12 work.

THE QUALITY MATTERS AND NOT A NONEXISTENT, GUESSED-AT, ARABIC NUMERAL PERCENTAGE THAT DOES NOT EXIST AND IS A FICTION.

I again call your attention to my letter of February 17, 1967 wherein in my original interview with your auditor, we estimated I spent 40% of my time on GS-12 cases; and again call your attention to the contents of this letter pertaining to my "aide" and Trial Attorney work-and your percentage-credit approach.

In view of the foregoing it is requested that my position be reclassified to GS-12.

Very truly yours,

Alexander Flasterstein

Alexander Flasterstein
Investigator
U.S. Immigration & Naturalization Service
20 West Broadway
NY,NY 10007.

A-168

UNITED STATES CIVIL SERVICE COMMISSION
BUREAU OF INSPECTIONS
WASHINGTON, D.C. 20415

MAY 29 19

USA 33s - 475
(ED. 4-23-71)

PLAINTIFFS'
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
26 ID.

FPI-MI—2-2-73-10M-8753

Airmail
Mr. Erwin Dabrinski
8639 Edmond Drive
Rosemead, California 91770

Dear Mr. Dabrinski:

We have completed our consideration of your request to reopen and reconsider your position classificatinn appeal which was denied by our San Francisco Region.

We find that you have not presented material information not previously considered by the Region and have not established a reasonable doubt as to the appropriateness of the Region's decision. Accordingly, we are not reopening this case and the decision of our San Francisco Region remains the final decision of the Civil Service Commission on your appeal.

In your most recent letter to this Office you discuss in some detail a survey of investigator positions at the Los Angeles District Office conducted by the Immigration and Naturalization Service. You raise numerous questions pertaining to this survey and ask for answers to these questions. It is our understanding that the survey to which you refer was conducted by the Immigration and Naturalization Service to determine how much GS-12 level work was being performed by GS-11 investigators, preliminary to concentrating such work in new GS-12 positions. The survey was conducted by the Immigration and Naturalization Service on its own authority and was not under the control of the Civil Service Commission. Consequently, we cannot undertake to supply you with the requested explanations.

The departments and agencies have authority to determine the nature and content of positions to be established and to select employees for promotion to newly established positions. Nothing in the classification law empowers the Commission to review agency decisions of this nature.

In classification appeals our function is to determine the proper classification of duties and responsibilities which have been assigned by the agency. Since we cannot establish that you have been assigned

duties and responsibilities of the GS-12 level which occupy the preponderance of your time, we cannot grant your appeal.

Sincerely yours,

John D. Glasheen

John D. Glasheen
Chief, Classification
Appeals Office

cc:
Mr. John F. Griner
National President.
AFGE, 400 First Street, NW.
Washington, D. C. 20001

WF 71/20 RV

NORTHEAST REGION - PERCENTAGE OF GS-12 INVESTIGATIONS CASE WORK PERFORMED BY GS-11 INVESTIGATORS -- 1966 - MARCH 1967 COMPUTED FROM CASES PRESENTED BY THE DISTRICTS

Portland, Hartford, Boston, Providence, Springfield, Albany -- None

St. Albans -	George J. FAULKNER, GS-11 (Ret.)	1%
	Byron C. HUBBART, GS-11	1%
Buffalo -	Frank E. LATCHFORD, GS-11	13%
Newark -	Elmer A. KALER, GS-11	5%
	Harrison W. RHODES, GS-11	20%
	Aldo SETTINO, GS-11	15%
	Joseph SKOSNIK, GS-11	6%
	Edmund P. WHELAN, GS-11	3%
	Stanley ANDERSON, GS-11 (retired)	20%
New York -	Edwin, BARNETT (transferred)	5%
	Benjamin BELLIR, GS-11	20%
	Frank E. BRENNIO, GS-11	10%
	Ellsworth H. BILLARD, GS-11	20%
	Loyd W. COOPER, GS-11	20%
	Robert F. HOHN, GS-11	5%
	Edward KAVAZANJIAN, GS-11	10%
	Robert J. LYNESS, GS-11	50%
	Jack J. RICCIARDI, GS-11	70%
	Joseph A. SILVA, GS-11	5%
	Frank E. STONE, GS-11	20%
	George E. TARRANT, GS-11	20%
	Allen VYSE, GS-11	20%
	Thomas H. WADDILL (resigned)	3%

8 Total

CC: Assistant Commissioner, Investigations, Central Office

CC: WF 71/20

USA 33s - 475
(ED. 4-23-71)

PLAINTIFFS'
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

28 I.D.

FPI-NI—2-2-73-10M-8753

A-171

JACK J. RICCIARDI
52 Park Place
Staten Island, New York 10301

March 1

L. H. Baer, Director
United States Civil Service Commission
220 East 42nd Street
New York, New York 10017

Your PME:SF:mp; February 1, 1967

Dear Sir:

Attached hereto is a copy of my letter to the Civil Service Commission, Washington, D. C., wherein your decision dated February 1, 1967 denying my reclassification appeal is discussed. I would like to take this opportunity to request that your office evaluate the correct information which I furnished to your auditor during July 1966. If your decision is final and not subject to further consideration it is respectfully requested whether I may personally examine my reclassification appeal work folder on file at your office, and also request that any notes made by your auditor be preserved.

Your advice is also requested as to whether I may file another appeal with your Service. In this respect I have been informed that I must wait six months, and I would like to know whether the six months is subsequent to date of interview with your auditor or six months from date of your decision.

In view of the fact that I filed an individual appeal it does not appear that the six months delay in arriving at a decision in my case was justified.

It is also requested that any further correspondence in this matter be sent to my home address as noted above.

Very truly yours,

JACK J. RICCIARDI

A-172

February 17, 1967

TO: United States Civil Service Commission
Washington, D. C.

FROM: Jack J. Picciardi, Investigator GS-11
Immigration and Naturalization Service, New York

SUBJECT: Reconsideration of Decision of the U. S. Civil Service Commission as the result of recent audit conducted at the New York District Office of the Immigration and Naturalization Service.

This memorandum is written in reply to the attached letter of February 1, 1967 from the New York Region of the Civil Service Commission, wherein discussion is had as to an appeal submitted by me and other investigators of the New York District Office of the Immigration and Naturalization Service.

As noted, your New York Regional Office conducted an on-site audit of my position to determine the nature and complexity of my assignments together with consideration of other factors [illegible] decision rendered in my case reflected that I am properly classified as a General Investigator GS 1810-11.

After careful review of the Commission's letter, it does not appear that the reasoning cited therein properly evaluated the information furnished to your auditor. The penultimate paragraph on Page 4 discusses the "impact of my supervisory assignment on my grade," and it is stated that "when you are acting as Ass't to the Unit Chief your major supervisory responsibility is to guide and review the work of GS-9 Investigators."

During discussion with your auditor I had advised (and have Service records to prove my claim) that my particular supervisory experience consisted of acting as THE Unit Chief (a GS-12 position) and during the course of such duties I was responsible for the supervision of from fourteen to sixteen GS-11 investigators. At that time I also advised as to the specific number of hours that I was assigned to this position (an average of five hundred and twenty-five (525) hours in the last three calendar years, which is approximately 30% of my yearly non-hours). It was pointed out that my last assignment as "Ass't to the Unit Chief" was during July 1964, at which time I had already logged 895 hours (in calendar 1964) on that assignment. Therefore it is requested that appropriate

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evaluation of this Supervisory assignment be made in conjunction with the evaluation of my other assignments.

In discussing my other assignments (investigative cases) I can state without reservation that in the past six years while assigned in the Criminal Unit of the New York District Office that at least 75% of my time has been spent on cases that the Commission at New York (and the GS-12 Job Description) describes as being "complex, delicate, and having an impact on the national economy, social welfare, and security." I can furnish your Commission proof of the foregoing, if considered necessary, and utilize the public domain of local and foreign news media, INS publications, as well as incentive award correspondence to support this claim. I can also furnish the name and file number of each specific case which falls within the above cited description. The majority of my assignments and time have been spent on subjects who are members of organized crime syndicates (MAFIA) and to locate persons wanted by Foreign Governments and Interpol who have often entered the United States surreptitiously and assumed other identities. Many of these investigations have been successful enough to have received both local and foreign publicity when investigation and apprehension were completed.

Therefore it would appear that the decision rendered by the Regional Office of the Civil Service Commission did not properly evaluate the information furnished by me to your auditor.

It is therefore respectfully requested that further consideration be given to my appeal based upon the facts previously furnished and reiterated herein which do not appear to have been considered (or properly discussed in the letter from your New York Regional Office).

I would also like to recommend that my United States Immigration and Naturalization personnel file be reviewed in order to assist your Commission in arriving at a fair and equitable decision.

A-174

ICA:APP

JUL 18 1967

Mr. Elmer Fried
Attorney at Law
515 Madison Avenue
New York, New York 10022

Dear Mr. Fried:

This will acknowledge your letters of July 3 and July 5.

At the request of the American Federation of Government Employees, we have reviewed our action on the cases of the Immigration and Naturalization investigators whose position classification appeals were denied; but, we have found no basis for modifying our decisions on these cases. We did not agree to reopen or undertake further factfinding on these cases. The Commission reopens and reconsiders classification appeals only upon presentation of material information not previously considered or establishment of a reasonable doubt as to the appropriateness of the previous decision.

The Commission's policy with respect to the classification of mixed-grade positions is stated on pages 24 through 26 of the introductory material to Position-Classification Standards (dated August 1963, Transmittal Sheet No. 471. This material should be available to you in any Government agency library and many public libraries. It also may be purchased from the Superintendent of Documents, Government Printing Office.

We have no specific information regarding reclassification of investigator positions by the Immigration and Naturalization Service at West Coast offices. However, it is our understanding that the Service has been engaged in making management studies at its field offices to determine the number of GS-12 positions required by the workload. We have urged and the Service has agreed to fill recognized needs for GS-12 positions by reclassifying the positions of investigators, whose positions justify such reclassification because the preponderance of is spent on GS-12 level work. To the extent that such reclassifications do not meet identified needs, the Service proposes to promote GS-11 investigators to new GS-12 positions and has accepted our suggestion that investigators selected for promotion be those who have been performing the highest percentage of GS-12 level work.

EXHIBIT A

The classification law requires that positions be classified on the basis of their current duties and responsibilities. Past assignments are significant in determining the grade level of a position only to the extent that such assignments can be considered as representative of current work and work which will be performed in the future. Thus, it appears probable that the cases you mentioned are individuals who have been selected for promotion on the basis of assignment of additional GS-12 work.

Sincerely yours,

John D. Glasheen
Chief, Classification
Appeals Office

ICA:JDGlasheen:yl 7-13-67

OFFICE SERVICES DIVISION
MAIL & COMM. UNIT
JUL 13 1967
MAILED BY

A-176

American Federation of Government Employees

AFFILIATED WITH THE AFL-CIO

JOHN F. GRINER, NATIONAL PRESIDENT
ESTHER F. JOHNSON, NATIONAL SEC.-TREAS
WASHINGTON, D. C.

NATIONAL HEADQUARTERS
400 FIRST STREET, N.W.
WASHINGTON, D. C. 20001
737-4705

IN REPLY PLEASE REFER TO: Id/1917

June 22, 1967

Mr. Gilbert A. Schulkind
Director, Bureau of Inspections
U. S. Civil Service Commission
Washington, D. C. 20415

Dear Gil:

This is in reference to your communication of June 9, 1967, enclosing a copy of the Commission's certification letter addressed to the agency which indicated the decision on each appeal of the Immigration and Naturalization Investigators in New York.

I was naturally pleased to learn that the positions of twelve of the twenty-five Immigration and Naturalizations Investigators, GS-11, who had appealed, were upgraded to GS-12, but, at the same time, I was disappointed that a greater number had not been certified to the higher grade. I believe there are still some positions, which the Appeals Office considered as properly classified at GS-11, that fully justify classification to GS-12 based on the work performed by the incumbents of the positions. I, therefore, ask the Commission to review once more the positions of the thirteen Investigators, and that the employees be allowed to make further submissions if necessary.

Sincerely,

J. F. Griner
National President

BUREAU OF INSPECTIONS
RECEIVED
JUN 23 1967

A-177

ICA:AP

JUN 9 1967

9

Mr. E. A. Loughran
Associate Commissioner, Management
Immigration and Naturalization Service
Washington, D. C. 20536

Dear Mr. Loughran:

We have reopened and reconsidered the position classification appeals of a number of investigators in your New York office which were originally denied by our New York Region.

We find that the following listed employees have been performing work which justifies classification at the GS-12 level and we are, therefore, certifying the positions occupied by these employees to you for classification as General Investigator, GS-[illegible]-12:

Sidney E. Mason	Jack Ricciardi	Edward Kavazanjian
Benjamin Beller	Sidney Fass	Philip W. Guglielmo
James J. Rowland	Jack T. Lazarus	Frank E. Stone
Samuel H. Zutty	Joseph Judge	Robert A. Wilson

We find no basis for reversing the decision of our New York Region that the positions occupied by the following listed investigators are properly classified at the GS-11 level:

Vincent A. Burke	William Koerber	Samuel Villanova
Frank E. Benenio	John F. Reilly	Edward A. Portale
Ellsworth R. Billard	Joseph A. Senn	Alexander Plasterstein
Frank G. Hayden	Joseph J. D'Amico	Carl L. Swift
Joseph A. Farrell		

Sincerely yours,

John D. Glacheen
Chief, Classification
Appeals Office

APPEAL-TEMP. LIST

cc: Director, New York Region
U.S. Civil Service Commission

ICA:JDGlacheen:yl 6-8-67

9

JUN [illegible]

A-178

ICA:APP

10

Personal
Mr. Jack T. Lazarus
Immigration and Naturalization
Service
20 West Broadway
New York, New York 10007

Dear Mr. Lazarus:

We have completed our review of your position classification appeal which was denied by our New York Region.

Our study included careful consideration of the arguments presented in support of your request for reconsideration and the file developed by the New York Region on the case, as well as discussion of your work with supervisory personnel in your organization.

We find that your position warrants classification at the GS-12 level. Accordingly, we are certifying the position to the Immigration and Naturalization Service for such classification.

Sincerely yours,

John D. Glasheen
Chief, Classification
Appeals Office

ICA:JDGlasheen:yl 6-8-67

CENTRAL FILES UNIT
JUN 12 1967
MAILED BY

A-179

REQUEST AUDIT FOR RECLASSIFICATION

OF USINS INVESTIGATORS GS-11, GENERAL FIELD GRADE

TO THAT OF CRIMINAL INVESTIGATOR OR SPECIAL AGENT,

GS-12 and 13, FIELD GRADE

12

The investigators of the New York Subversive Section, Special Investigations, U. S. Immigration and Naturalization Service strongly feel their investigative duties and responsibilities are such that an immediate reclassification, as indicated above, is warranted.

The scope of subversive investigations, as currently performed by GS-11 General Field Grade Investigators of USINS are fully and completely within those duties as described in U. S. Civil Service Classification for Grades GS-12 and 13.

A sample of the duties and functions as performed by GS-11 General Field Grade Investigators of the Subversive Section, Special Investigations of USINS, is as follows:

Investigators conduct security type investigations on the same subjects and which are of equal complexity and diversity as those conducted by Special Agents of the Federal Bureau of Investigation whose agents are Field Grade GS-12 and GS-13. It is to be noted that investigative reports are exchanged and a close liaison maintained by both agencies in matters concerning subversion.

Other agencies of the Government which conduct Intelligence and Security type investigations and disseminate information to USINS relating to activities of foreign political organizations and individuals in the subversive category. Investigation relating to those individuals who may be members of political organizations is initiated and conducted by the Subversive Section, Special Investigations, with those other agencies being kept informed of investigative developments.

The Security Division of the Department of State, on all occasions where the Subject is in the United States, requests USINS to investigate the possible subversives who have made application to enter the United States, either for permanent residence or as visitors. On many occasions requests for investigation are also made when the Subject is outside the United States.

The necessary investigation is then conducted, and based upon the results of such investigation the Department of State will either issue or deny the applicant such visa.

The aforementioned investigation is generally complex in nature and is often conducted on a national and international scale.

PARTICULAR INVESTIGATIONS OF PRIME IMPORTANCE TO NATIONAL SECURITY

No Service Investigations are as important to, or have greater effect on national security as subversive investigations. A most important function of the subversive investigator is the investigation of Aliens who, because of the nature of their activities, pose a dire threat to the security and welfare of the United States. The compilation of evidence upon which to base deportation proceedings, and the location and apprehension of these aliens must be expeditiously handled so that prompt action is taken toward enforcing their departure from the United States.

In certain instances where it is not possible or practical to institute immediate deportation proceedings against aliens considered to be security risks, the subversive investigator must keep abreast of the whereabouts of such aliens, sometimes in a discreet manner either by surveillance or other suitable means. He has the responsibility of knowing the current location of these aliens so that appropriate action may be taken to maintain the security of the nation during any national emergency and at all other times.

SENSITIVITY OF SUBVERSIVE INVESTIGATIONS

A factor that is almost unique to subversive investigations and which occurs in a higher proportion of cases as compared to most other types of investigation, is the high degree of sensitivity involved therein. Most of the subjects of subversive investigations are actively engaged in or are interested in political matters either in the United States or abroad. Many persons contacted during the investigations have political ideologies ranging from the extreme right to the extreme left, with various shades in between. The subversive investigator often comes in contact with present foreign government officials, government officials in exile, and other prominent persons who may be future leaders of foreign governments. It is incumbent that the investigator handle these investigations with extreme care and skill so that the enforcement of the Immigration and Nationality laws is effectively carried out without ALIENATING goodwill toward the United States.

In view of the fact that so many persons contacted are prominent, or are persons engaged in political controversies, or are persons engaged in intelligence operations, the investigator has to be aware of and avoid publicity, either favorable or unfavorable.

RESPONSIBILITY FOR SECURITY CLASSIFICATION

The investigator is constantly dealing with classified information affecting the national security. The utmost efficiency, knowledge and skill of the investigator is necessary since these matters concern national security. Factual reports must be prepared, involving classified information, for admission as evidence in a deportation hearing or for prosecution in a court of law. Caution and discretion must be exercised to allow maximum protection of classified information so as not to disclose the original source or text, in compliance with National Security Regulations.

INTERROGATION

The Investigator in almost all instances must take a sworn statement during the course of a subversive investigation. Interrogation under oath in a subversive matter is lengthy and complex. The Investigator taking such sworn statement must be fully knowledgeable of the subversive organization or organizations, its activities, officers, members, and political ideologies of the countries involved, in order to intelligently and successfully interrogate a Subject. Thorough knowledge of the Immigration and Nationality laws and other pertinent laws as prerequisite in order for the Investigator to properly guide and control the interrogation.

Skillful methods and techniques must be employed, and such specialties are acquired only through years of specialized experience. Such interrogations are in many instances the basis for the institution of deportation and/or criminal proceedings against the Subject involved.

Subjects of Subversive Investigations are almost always represented by attorneys, and it is therefore of utmost importance that the Investigator be fully aware of proper procedure so as not to violate the Constitutional Rights of the Subject. This situation is further magnified in those cases where the Subject concerned may be amenable to Service or criminal proceedings, and it is significant to bear in mind that the investigator must be fully knowledgeable of the rules of evidence.

DEFECTORS

Investigators interview defectors from foreign countries whose political philosophy is diametrically opposed to that of the United States. The information garnered from these individuals is directly beneficial to the security and well-being of the United States.

It is the responsibility of the Investigator to gather, collate, analyze, and compile all available evidence for the purpose of presenting such material for consideration to proscribe subversive organizations within the purview of the Immigration and Nationality Act. In connection herewith, detailed and comprehensive investigations are conducted concerning members and officers, many of whom are aliens or naturalized United States citizens, whose activities may be inimical to the best interest and security of the United States.

Such compilations, by their very nature, are lengthy and complex and have far-reaching consequences. The end result of a compilation may be the proscribing of such questionable organization by the Attorney General of the United States, based upon investigation of some or all of its officers or members.

To accomplish proscription the Investigator must delve deeply into areas with which he, at the outset, may not be thoroughly familiar. It is necessary that he do research so that he becomes knowledgeable of the aims and inner workings of such organizations. Many persons are interrogated at length, texts are studied, and relating investigations are initiated on a regional, national and international level.

Compilations of subversive organizations for the purpose of prescription are of continuing interest to the Central and Regional offices of USINS. They are also of great interest to other agencies involved in the national security.

In the final analysis it is the hard concrete evidence uncovered which places an organization in the proscribed category, and it is the duty of the Investigator to uncover such evidence.

DEPARTURE CONTROL

Investigators are charged with the enforcement of Departure Control during times of national emergency and crises.

In the performance of such an important function it is the duty of the Investigators to control or prevent the departure, legal or illegal, of those individuals whose departure from the United States might prove inimical to the best interest of the United States. Many times this is done at the behest of other federal agencies lacking the authority to enforce departure control.

FRAUDS

During the course of investigation it is not uncommon for the Investigator to uncover evidence that an individual under investigation entered the United States by fraudulent means.

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Subversives, Foreign Intelligence Agents, Assassins, Anarchists, etc., of a foreign nation and now in disrepute as a result of a political upheaval in their countries have entered the United States. To escape detection by United States authorities they enter presenting fraudulent or fraudulently obtained foreign passports, including United States passports, visas, and United States birth certificates. These individuals are apprehended at great personal risk to the Investigator. Such individuals are then prosecuted in United States courts under the various sections of law relating to the crime involved.

It is also significant to note that any investigation conducted by other sections of the Investigations Branch, whether it be criminal or visa fraud, is immediately transferred to the Subversive Section, Special Investigations, the moment a subversive allegation appears. It is then the duty and the responsibility of the Investigator to resolve the subversive aspects of such matters, as well as the criminal, visa fraud, and all other immigration violations.

REPORT WRITING

Subversive investigations, because of their complexity, demand the utmost skill when the Investigator incorporates his findings in report form. Such reports are prepared so as to accomplish their purpose in a thorough, efficient and professional manner. Due to the voluminous material developed, subversive reports are of necessity always lengthy, involved, and may well include multiple Subjects who are officers or members of subversive organizations. The review of such reports can swiftly glean the contents and identify proven facts, together with other information developed by the investigation. Reports are prepared so as to achieve the objective and serve the intended purpose whether it be prosecution, deportability, or a matter affecting the security of the United States. Such reports are furnished to other interested governmental agencies.

Two basic essentials required for composing such reports necessitates an excellent command of the English language and a high degree of legal knowledge which is acquired only through years of experience. A full understanding and thorough knowledge of the Rules of Evidence, both administrative and criminal, is mandatory for the Investigator to accomplish his mission when operating in the field and recording facts in report form.

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CITIZENSHIP AND REVOCATION

In seeking grounds on which to base revocation action, the investigator must be aware of those naturalization requirements embodied in the law at the time naturalization was conferred. The Investigator must know the substantive and procedural provisions in effect at the time naturalization was procured. Of equal importance is the effect of past and current court decisions with which the Investigator must be thoroughly familiar. After having acquired such knowledge it is only then that the Investigator is capable of readily visualizing the scope of investigation.

These matters are lengthy and must be vigorously undertaken to insure expeditious completion. This is especially true where a statute of limitation is involved. When United States citizenship is acquired by judicial proceedings the revocation investigation based on subversive grounds is conducted for the purpose of obtaining admissible evidence of the quality essential to such a judicial proceeding. It must be borne in mind that a successful revocation action does not in itself complete an investigation. The ensuing issue of deportability must then be resolved.

The Investigator must insure that the evidence required for a subversive revocation matter is admissible, unequivocal, convincing, and leaves no issue in doubt.

INFORMANTS:

The Investigator, through years of experience, has acquired a high degree of proficiency and skill which is most necessary for the development and control of the following types of informants:

Former or present members of a proscribed or questionable organization, foreign or domestic, who are willing to appear as government witnesses to testify as to their knowledge of an individual's membership therein, or as to the nature, aims and purpose of the organization, or as to the identification, publication, distribution and authenticity of the literature of such organization.

Former or present members of either a proscribed or questionable organization who do not wish their identity disclosed, or are unwilling or unqualified to appear as witnesses, but who are in possession of information relative to the organization or on specific individuals, and have indicated a willingness to cooperate with this Service.

Persons who, although they have not been members of subversive organizations, are in possession of information relating to such organizations or members thereof, and are willing to cooperate with this Service regardless of whether they are willing or qualified to appear as witnesses:

Individuals who have knowledge of operations involving smuggling of Aliens, document frauds, racketeers, movements of professional criminals, or other matters within the jurisdiction of this Service, and who are willing to cooperate with this Service on a continuing basis.

APPLICANTS FOR U. S. CITIZENSHIP AND OTHER BENEFITS UNDER THE IMMIGRATION AND NATIONALITY LAWS

All applicants for United States citizenship or benefits under the Immigration and Nationality laws are referred to the Subversive Section whenever a subversive allegation is present. Upon completion of investigation the Investigator presents a factual report to the appropriate operating unit. The operating unit involved will take into consideration the Report of Investigation and determine whether or not the applicant would make a desirable United States citizen.

The acquisition of United States citizenship is an extremely important matter. It is of utmost importance for the Investigator to screen out and identify subversives and other undesirables who may constitute a threat to the general welfare and security of the United States, prior to their acquisition of United States citizenship.

ENFORCEMENT

The Investigator is responsible for the enforcement of the Immigration and Nationality laws and also for the presentation of criminal prosecution in connection with such enforcement.

The duties of the Investigator are considered to be in the hazardous category. He is empowered to make arrests without warrant, the only Federal Agency so authorized. He must be fully cognizant of all laws and instructions relating to authority of arrest with or without warrant.

A-186

American Federation of Government Employees

AFFILIATED WITH THE AFL-CIO

JOHN F. GRINER, NATIONAL PRESIDENT — ESTHER F. JOHNSON, NATIONAL SEC.-TREAS.

WASHINGTON, D. C.

NATIONAL HEADQUARTERS
400 FIRST STREET, N.W.
WASHINGTON, D. C. 20001
REPUBLIC 7-4705

Id/1917

IN REPLY PLEASE REFER TO:

March 6, 1967

Mr. G. A. Schulkind
Chief, Bureau of Inspections
U. S. Civil Service Commission
Washington, D. C.

Attn: Mr. John Glasheen

Dear Mr. Schulkind:

We are transmitting herewith the requests of 23 Immigration and Naturalization investigators, GS-11, for reconsideration of the decisions issued by the New York Civil Service Regional Office, dated February 1, 1967, denying their appeals for reclassification of their positions to Grade GS-12. The names ofthe employees are:

James J. Rowland
Frank G. Hayden
Alexander Fidsterstein
Joseph E. Stowe
Benjamin Beller
Joseph A. Farrell
Edward Kavanzanjian
Edward A. Bertele
Thomas J. Philbin
William Koerber
Samuel H. Zacty
Joseph J. D'Amico
Samuel Villanova
Jack J. Ricciardi
Frank E. Benemio
Joseph A. Senna
Ellsworth R. Billard
Joseph Judge
John P. Reilly
Philip W. Guglielmo
Sidney Fass
Sidney E. Mason
Robert A. Wilson

The employees, in support of their claims that their positions warrant a higher grade, have submitted in current appeals cogent reasons which many are willing to further document. There is therefore little need for us to add to what has been said.

It is noted that in the Regional Office decision of February 1, issued to a considerable number of appellants it is admitted that the positions in question had cases which involved elements of assignments found at the GS-12 level having the required complexity, delicacy, and impact on the National economy, security, etc. Yet the appeals were denied on the basis that the Region "did not find that they occupied a majority of the employee's time.

We strongly object to the use of this very questionable "yardstick"

or method which we understand has only recently been adopted (1963) by the Civil Service Commission in its attempt to allocate certain positions.

According to a number of employees including officers of the American Federation of Government Employees INS Lodge, the "majority" figure is contrary to what the New York Civil Service auditor had verbally informed them at the time of the survey of the positions. It is stated that the Civil Service auditor said that 25% of the work in GS-12 level cases is adequate in judging what constitutes the pre-requisites relative to a GS-12 position of Immigration and Naturalization Investigator. We were also informed that this minimum of 25% of the higher grade level of work was employed, in toto, in previous Civil Service Commission audits in that area. We are quite certain that this minimum of 25% is accepted and used throughout the Federal service as a guide in allocating positions to higher grade.

In regard to the term "mixed grade position", it is generally understood that a "mixed position" is usually one that consists of two or more occupational groups. This does not hold true with respect to these investigator positions. If the investigator positions are "mixed grade positions" then it is fair to say that almost every job in the government is mixed grade in that the work usually falls in part in different grades.

Finally in regard to the "majority of time spent" rule, attention is called to the initial paragraph of the GS-12 standard which reads:

> "Occasional performance of such duties on a one-time or infrequent basis does not merit classification in grade level."

This, in effect, indicates that 5% of the time spent on duties at the GS-12 level would not warrant the higher grade. We agree with the Commission's New York Regional Office auditor and with what various agencies believe that the minimum of 25% is the proper "yardstick" in reclassifying positions to higher grade.

In concluding we wish to say that we believe a further review of appeals currently submitted by the employees will evidence that the employees have been occupied with work at the GS-12 level of responsibility, complexity and delicacy a sufficient amount of time to justify additional GS-11 positions being reclassified to GS-12.

We understand that the review by the Bureau of Inspection will be made on the basis of the duties and responsibilities of these employees as performed prior to and at the time of the audit of the investigator positions by the Commission's New York Regional Office. In closing we ask that a thorough and objective review be made of the positions in question.

Sincerely,

J. F. Griner, National President

A-188

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To: Mr. John D. Glasheen, Chief, Classification Appeals Office
United States Civil Service Commission, Bureau of Inspections
Washington, D. C. 20415

From: Mr. Jack T. Lazarus, Investigator, United States Immigration and Naturalization Service (President, Lodge # 1917, NYC, AFL/CIO, American Federation of Government Employees) 20 West Broadway, N. Y., N. Y. 10007. Home: 42 Irene Court, Closter, New Jersey, 07624.

Subject: ICA:APP

May 6, 1961
12

During the past week I

1. Reviewed "my file" (LAZARUS, Jack T. & 17 others, 4 501(b) appeal) at the office of the U. S. C. S. C. in Manhattan and was reassured when I saw Mr. Friedman's report on his on-cite audit of ME, on August 25, 1966.

   The concluding paragraph reads as follows:

   > "Analysis and Evaluation
   > The nature of the cases assigned are similiar to those described under GS-12 standard examples: 1 (a), (b), (c) and 2."

   Did E. A. Loughran, Associate Commissioner, Management, Immigration & Naturalization Service, Washington, fail to concur with Mr. Friedman's "original view"? Who killed Mr. Friedman's desire to reclassify me to GS-12? Is it because I am President of the Union and don't want to make any deals?

2. Thought of how horrible it is that for the first time ~~XXin~~ in the awards program history, no one in the Criminal, Immoral & Narcotic Section was "written up" for Outstanding, for quality increase or for Sustained Superior Performance. The only section in the entire building, to be so abused. Is it because I am President of the Union and I am part of this Section. Is it because I don't want to make any deals to betray my membership?

3. Thought of how horrible it is to be commended by the Secretary of the U. N. and by Ambassador Arthur Goldberg, both by letter to Commissioner Farrell last month, and because of my being the President of the Union, a no deal president, I have not been informed of the receipt of those letters. Had I not been informed of the senders' appreciation of my recent efforts in their behalf and that I had been so commended in writing by them, I would never had known about the letters.

4. Thought of how horrible it is that no Investigator from the Criminal, Immoral & Narcotic Section (the only section of the five sections appealing their grade), the section wherein the President works as Investigator, was reclassified and it may very well be that way once again. Is it because the President of the Union sits there? Is it because he doesn't want to make any deals;to be "a good boy."

J. Theodore Lazarus

A-190

42 Irene Court, Closter, New Jersey 07624

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Light Reading For Heavy Stomachs

The United States Immigration & Naturalization Service; An Independent Agency Within The United States Department Of Justice.

This is an appeal from the decision of the Regional Commissioner, U. S. Civil Service Commission, NYC, refusing to grant reclassification from Grade-11 to Grade-12, after conferring SECRETLY with the defendants in this action: The Immigration Service, because appelant is President of Lodge #1917, U. S. Immigration and Naturalization Employees Union, NYC, American Federation of Government Employees, AFL/CIO, 20 West Broadway, New York, New York 10007.

During 1966 a large group of Investigators in the NYC office appealed to the Regional Commissioner, U. S. Civil Service Commission, NYC, to look into our work and grades and see if we could be brought up to par with other Federal law enforcement agencies. As a matter of fact, the original appeal read," Jack T. Lazarus and ~~Eighteen~~ SEVENTEEN appelants." We were joined by forty other Investigators later on. This brief then is hereby filed with Mr. Clasheen of the U. S. Civil Service Commission, Washington, as he has kindly undertaken to hear our appeal from the decision of the Commission's office in NYC.

1. When I was interviewed by Mr. Samuel Friedman of the Commissions auditing staff in NYC, I was very careful not to leave anything to chance: I brought all my cases, all my eleven cases, into the room with me. Other Investigators discussed their cases with Mr. Friedman from notes on 3x5 cards or from memory. I did not. I brought them all into the room that the District Director at NYC Immigration had assigned to him and presented them to him. He read them all, made copious notes on all of them and concluded by saying, "These ten cases are Grade-12: this one is Grade-11." I shall be happy to take a lie detector test on this score. I was very happy at Mr. Friedman's evaluation; that ten of my eleven cases were Grade-12 work and told him so.

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J. Theodore Lazarus

42 Irene Court, Closter, New Jersey 07624

2. Now we must find out, or at least try to find out, why I was not reclassified, based upon and only based upon Mr. Ffiedman's "ON CITE INSPECTION"; NOT whether E. A. LOUGHRAN likes or dislikes me; NOT whether I hate and despise E. A. LOUGHRAN and his SECRET Appraisal Report and SECRET Promotion List or Lists; NOT whether the Chief Investigator in NYC hates and despises all unions and all union presidents and me in particular, but based only, ONLY on the "ON-CITE INSPECTION" done by the U. S. Civil Service Commission's auditor, Mr. Ffiedman. This interview, called an "on -cite inspection", is the sole determining factor; this "come-see-for-yourself" type of appraisal, is very fair and we must now look elsewhere, beyond Mr. Friedman, to see why I was not reclassified.

a. Was the letter I received from said Commission, advising me that I was not worthy of reclassification, dictated, typed and forwarded to the Commission in NYC? Did the Regional Commissioner then affix his covering letter to the evaluation, making it appear that it was the sole effort of the Commission's NYC office? Isn't it a fact that the evaluation emenated from the Commission's office in Washington, after allowing the U.S. Immigration Service, the defendants in this action, to chose whom they pleased. So that I am not appealing to any higher authority, but to the same Washington office, who made the original XXX evaluation.

The Regional Commissioner of the U. S. Civil Service Commission at NYC, by his letter of evaluation, made it appear that he heard our appeal, sent his auditor to get the facts and that he - nobody else - then rendered an evaluation. A dirty, shoddy, stinking, filthy piece of business.

Why did this man, behind the appellants backs, furnish his ("HIS") decision to our Administrative Officer in Washington (E.A.LOUGHRAN), XXX the defadant in this action, long before he told the appellants; the plaintiffs in this action. What a scummy piece of work this was! A judge furnishing his decision to the defendants, many weeks before he makes it known to the plaintiff. Why was it necessary for the Regional Commissioner's staff in NYC, to communicate with our personnel in our region at Burlington, Vermont, or our Central Office in Washington? Why was it necessary for them to seek the advise and consent of their Washington office? Were they in doubt of their procedure?

(3)

A-192

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UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WASHINGTON, D.C. 20536

PLEASE ADDRESS REPLY TO

AND REFER TO THIS FILE NO.

CO 612.1-C

MAY 27 1966

District Director New York Region
U. S. Civil Service Commission
News Building
220 East Forty-Second Street
New York, New York

Dear Sir:

This is in reply to your file PMM:rp of May 11, 1966 pertaining to the classification appeal of 18 GS-11 investigators in our New York office. Since the classification of positions above the GS-9 level is the responsibility of the Central Office, we are preparing the reply.

Enclosed are a copy of the General Investigator GS-12 position description #00347, outlining the duties and responsibilities which have been assigned by management; organizational and functional charts of the Investigations Branch of the New York District; an evaluation statement based upon the current Civil Service Commission classification standards; and a copy of these single agency standards.

These grades were determined as the result of analysis of the investigations workload of the New York City office by work category. Any investigations at the GS-12 level of difficulty which may arise would be carried through or directed by supervisory officers at the GS-12 or higher levels. There are four such positions at the GS-13 level and nine at the GS-12 level in the New York office. No change is contemplated at this time.

Sincerely,

E. A. Loughran

E. A. Loughran
Associate Commissioner, Management

6/1/66

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A-193

Optional Form 8
February 1957
U. S. CIVIL SERVICE COMMISSION
Chapter 532, Federal Personnel Manual

54 POSITION DESCRIPTION

1. Check one: Dept'l ☐ Field ☒
2. [illegible] headquarters: Various
3. Reason for submission:
(a) If this position replaces another (i. e., a change of duties in an existing position), identify such position by title, allocation (service, series, grade), and position number
(b) Other (specify) New
4. Agency Position No.
5. C. S. C. certification No.
6. Date of certification
7. Date received from C. S. C.
8. CLASSIFICATION ACTION

ALLOCATION BY	CLASS TITLE OF POSITION	CLASS Service	CLASS Series	CLASS Grade	INITIALS	DATE
a. Civil Service Commission						
b. Department, agency, or establishment						
c. Bureau	General Investigator	GS	0810	11	[illegible]	1-17-61
d. Field office						
e. Recommended by initiating office						

9. Organizational title of position (if any)
10. Name of employee (if vacancy, specify V-1, 2, 3, or 4)
11. Department, agency, or establishment: Department of Justice
a. First subdivision: Immigration and Naturalization Service
b. Second subdivision: All Regions
c. Third subdivision: All Districts
d. Fourth subdivision:
e. Fifth subdivision
12. This is a complete and accurate description of the duties and responsibilities of my position
(Signature of employee) (Date)
13. This is a complete and accurate description of the duties and responsibilities of this position
(Signature of immediate supervisor) (Date)
Title:
14. Certification by head of bureau, division, field office, or designated representative
Mario J. Noto 1-17-61
(Signature) (Date)
Title: Assistant Commissioner, Investigations
15. Certification by department, agency, or establishment
F. A. Loughran 1-17-61
(Signature) (Date)
Title: Associate Commissioner, Management

16. Description of duties and responsibilities (See Guide to Position Classifiers, Employees, and Supervisors for the Preparation of Position Descriptions, Standard Form No. 75)

I. INTRODUCTION:

Under the general supervision of a higher grade investigator or other officer of the Service, incumbent plans and conducts investigations under the criminal and statutory provisions of the Immigration and Nationality laws.

II. DUTIES AND RESPONSIBILITIES:

1. Individually conducts investigations which generally involve multiple issues; have a potential for developing into a number of individual investigations; concern serious violations; or directly affect individuals who have achieved prominence. Typical assignments include investigations involving:

a. Development of facts and evidence for the initiation of proceedings for revocation of naturalization;

If more space is required, use the other side and additional pages (see 8 x 10½) 16— 47700-4

55

b. Applicants for naturalization or other citizenship benefits where allegations or facts preliminarily developed appear to be sufficient in scope and substance to warrant the conduct of a full field investigation as to the eligibility of the applicants for the benefits sought, or to establish their deportability;

c. Alleged fraudulent marriages entered into for the purpose of securing entry into the United States;

d. Aliens of the subversive, criminal, and immoral classes believed to be deportable;

e. Document frauds where there is some evidence of a conspiracy, or of widespread scope;

f. Claims or allegations of alienage or citizenship involving unusual difficulties in establishing the true status of the individual, where extensive investigations are required to establish expatriation, to establish or refute claims of identity and relationship, or to establish or refute claims of origin;

g. Changes in immigration status, revocation of parole, and other similar actions, where one or more individuals are involved, and the facts are difficult to establish because of the absence of records, and the difficulty of locating credible witnesses;

h. Smuggling cases where wide-scale conspiracy or smuggling rings are engaged in smuggling members of specific nationality or occupational groups;

i. Development of evidence in difficult cases looking toward prosecution under the penal provisions of the immigration and nationality laws; and related violations under the criminal code;

j. Re-defector cases involving the security and welfare of the United States: Ordinarily at this level these do not involve delicate diplomatic considerations;

k. Identification of individuals' names in various crime commission investigations, and development of sufficient evidence to establish their citizenship or alienage and status in support of revocation of naturalization or deportation proceedings where appropriate, or criminal proceedings under the penal provisions of the governing laws;

l. Complaints of illegal use of, or mistreatment of, agricultural laborers, or violations of compliance with controlling laws, rules, and regulations, where such investigations require dealing with labor representatives, and representatives of foreign agricultural organizations or governments.

Performs Trial Attorney

2. As assigned, presents the Service's position in less difficult exclusion and deportation cases. Reviews applications for Orders to Show Cause for completeness and consistency and for compliance with Service policy; directs further investigation where necessary; determines whether administrative remedies are available which would preclude the necessity for a hearing; prepares Orders to Show Cause where facts warrant such action; and performs other related duties required in the development and presentation of the Service's viewpoint.

3. Supervises, coordinates and controls the activities of other investigators of equal or lower grade assigned to assist in the development of the various phases of the investigation, and resolves jurisdictional conflicts, except in unusual instances.

4. Periodically is assigned as leader of a group of investigators of the same or lower grade. In such instances is responsible for the distribution of the work assigned to the group, coordinating and controlling the completion of cases, and furnishing leadership and guidance in the resolution of jurisdictional problems and interpretation and application of laws, rules and regulations. Review of reports and recommendations made by the investigators composing the group is limited to ascertaining compliance with outstanding instructions, complete review being made by a higher grade officer.

III. SUPERVISION AND GUIDANCE RECEIVED:

The incumbent is guided by the Immigration and Nationality laws, rules and regulations, the Administrative Manual, and the Investigator's Handbook. He determines the scope of the investigation, the necessity for the conduct of auxiliary investigations, contacts, interviews and interrogations to be made, and inquiries of prospective witnesses or others who may be involved; resolves jurisdictional conflicts, except in cases requiring policy decisions or establishing precedents of wide spread application, which are referred to superior for resolution.

He is responsible for reporting and recommending the full course of action to be taken to complete the disposition of the cases assigned, giving due consideration to availability of administrative remedies and possibility of successful prosecution.

He usually receives no instructions at the time of assignment other than advice as to any specific policies or program emphasis which may have a bearing on the investigation. He determines his own plan of action; requests the assignment of and directs, coordinates and controls the work of other investigators assigned to assist.

Review of investigative work is accomplished through evaluation of periodic and closing reports, interim discussions and soundness of judgment exercised as reflected in recommendations made and results accomplished.

Orders to Show Cause are reviewed by a higher grade investigator or other officer prior to issuance. Where the proposed plan of presentation of a case contemplates a novel or unprecedented course of action, the plan is discussed with and approval obtained from the supervisor prior to the presentation of the case.

IV. MENTAL DEMANDS AND ABILITIES:

He must have a good knowledge of all Immigration and Nationality laws, and specific knowledge of those directly relating to violations thereunder, as well as the criminal statutes relating to the enforcement of the Immigration and Nationality laws. He must keep currently informed of precedent decisions, both judicial and administrative, and of Service policy having a bearing on the enforcement of these laws. He is required to have a good knowledge of Customs laws and regulations relating to search and seizure and the responsibilities and authorities of other law enforcement agencies on the Federal, State and local levels, as well as a good knowledge of and ability to interpret and apply foreign laws as they relate to cases assigned.

He must be highly skilled in conducting interrogations, eliciting information from violators or reluctant witnesses, and in evaluating reliability and credibility of witnesses; in detecting frauds and tracing and uncovering evidence which has been carefully and effectively concealed; in reporting facts, distinguishing between relevant and extraneous information, and weighing evidence and making sound decisions and recommendations.

V. OTHER RELATING FACTORS:

Incumbent is authorized to apprehend and arrest without warrant, request the issuance of warrants of arrest or Orders to Show Cause; take depositions under oath, pay out monies for information within specified limits; present the Service position in cases before the U. S. Commissioner and the Grand Jury; and serve as a witness for the Government during judicial hearings involving investigations in which he has participated. He is also authorized to prepare Orders to Show Cause.

He must be able to deal effectively with individuals of all levels of the social and economic scale; adapt procedures and practices to meet immediate needs; and exercise ingenuity and resourcefulness in overcoming adverse attitudes and developing information and evidence.

NEW YORK DISTRICT

Investigations Branch

ORGANIZATIONAL CHART

May 20, 1966

District Director GS-16

Deputy District Director GS-15

Assistant District Director for Investigations GS-14

FRAUDS & PROSECUTIONS

1 Supervisory General Investigator GS-13

FRAUDS

1 Supv. Gen. Inv. - GS-12
18 Gen. Inv. - GS-11
6 Gen. Inv. - GS-9

PROSECUTIONS

1 Supv. Gen. Inv. - GS-12
4 Gen. Inv. - GS-11
3 Gen. Inv. - GS-9

SPECIAL INV.

1 Supervisory General Investigator GS-13

CRIMINAL

1 Supv. Gen. Inv. - GS-12
16 Gen. Inv. - GS-11
4 Gen. Inv. - GS-9

SUBVERSIVE

2 Supv. Gen. Inv. - GS-12
16 Gen. Inv. - GS-11
1 Gen. Inv. - GS-9

GENERAL INV.

1 Supv. Gen. Inv. - GS-13
2 Supv. Gen. Inv. - GS-12
21 Gen. Inv. - GS-11
14 Gen. Inv. - GS-9

SEARCH

1 Supervisory General Investigator GS-13

CREWMEN CONTROL

1 Supv. Gen. Inv. - GS-12
8 Gen. Inv. - GS-11
5 Gen. Inv. - GS-9

SEARCH

1 Supv. Gen. Inv. - GS-12
2 Gen. Inv. - GS-11
17 Gen. Inv. - GS-9
3 Gen. Inv. - GS-7

A-197

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NEW YORK DISTRICT

Investigations Branch

FUNCTIONAL ORGANIZATION CHART

May 20, 1966

DISTRICT DIRECTOR

DEPUTY DISTRICT DIRECTOR

ASSISTANT DISTRICT DIRECTOR
INVESTIGATIONS BRANCH
Administration of all investigative activities of the District

FRAUDS and PROSECUTIONS

Direction of Criminal Fraud and Private Bill investigations, preparation and presentation of prosecutions.

SPECIAL INVESTIGATIONS

Direction of all Investigations involving Subversive, Criminal, Immoral and Narcotic elements.

GENERAL INVESTIGATIONS

Direction of all Investigations except those involving Frauds, Private Bills and Subversive, Criminal, Immoral and Narcotic elements.

SEARCH

Direction of search operations involving evaluation of intelligence, deployment of surveillances to seek out and apprehend all persons illegally in the United States. Development of informants - identification of areas frequented by aliens illegally in the United States. Direction of overall waterfront surveillance and investigation of crewmen and ships suspected of smuggling, stowaways etc

FRAUDS

Performance of all investigations involving Immigration Frauds, Private Bills, and Intelligence.

CRIMINAL

Performance of all investigations involving Criminal, Immoral and Narcotic elements.

PROSECUTIONS

Performance of the presentation of Orders to Show Cause, recommendations as to the grant of voluntary departure or other action, preparation of matters involving criminal prosecutions to U.S. Attorneys.

SUBVERSIVE

Performance of all investigations involving Subversive elements.

CREWMEN CONTROL

Performance of overall waterfront surveillance and investigation of crewmen and ships suspected of smuggling, stowaways etc.

SEARCH

Performance of search operations involving evaluation of intelligence, deployment of investigations to seek out and apprehend aliens illegally in the United States. Development of informants - identification of areas frequented by aliens illegally in the United States.

A-198

60 Evaluation Statement for Investigator GS-11 Position Descriptions

The single agency classification standards prepared by the Commission for investigators in this Service are specific as to the type of assignments and responsibilities of investigators in this Service. Therefore, they have been by and large incorporated into the position description. The only change which we can envision would be to generalize, and thus lessen the applicability of the descriptions to the positions concerned.

The duties and responsibilities of our GS-11 positions tie in directly with the government-wide standards for investigators in the GS-11 level. Stripped of illustrations they read:

Independently plans and conducts complete investigations of the scope and complexity indicated by the following:

(1) Involve some ramifications
(2) Occasionally involve substantial controversial aspects
(3) In their results, effects, and/or consequences, to a substantial degree, constitute deterrents to crimes or violations, influence changes in laws, regulations, policies, operations, or practices, and/or establish precedents for future actions
(4) Involve moderately delicate issues
(5) Require major adaptations of basic guides, procedures, and techniques
(6) Require substantial ingenuity, resourcefulness, and creative thinking
(7) Involve relatively wide range in kind, social and professional level and/or importance of person-to-person work relationships.
(8) Require extended training and experience, and knowledge of a moderate variety of investigative areas or of a substantially specialized and complex area.

A-200

ICA:APV

61

March 16, 1967

Personal
Mr. Jack T. Lazarus
President, Lodge #1917
NYC, AFGE, AFL/CIO
42 Irene Court
Closter, New Jersey 07624

RETURNED

Dear Mr. Lazarus:

In connection with your request for reopening and reconsideration of your position classification appeal which was denied by our New York Region, we would very much appreciate the following information:

1. A list of all cases on which you have worked in calendar year 1966;

2. The approximate dates on which you worked on each listed case;

3. An estimate of the working hours which you spent on each listed case during calendar year 1966; and

4. Your opinion of the grade level of work involved in each listed case.

Please let us have this information as soon as possible.

Sincerely yours,

John D. Clasheen
Chief, Classification
Appeals Office

ICA:JDClasheen:yl 3-16-67

MAR 8 1967

A-201

62 J. Theodore Lazarus

42 Irene Court, Closter, New Jersey 07624

February 25, 1967

Mr. Gilbert A. Schulkind
Director, Bureau of Inspections
U. S. Civil Service Commission
Washington, D. C. 20415

Your: ICA: APP
Dated: February 21, 1967

Dear Sir:

Thank you for your kind letter and your reconsideration of my appeal.

I am an Investigator, with a B.A., M.A. plus 23 credits towards a PH.D.; who has conducted "Top Priority-Racketeer" investigations for the past decade; who started in government as a Messenger in 194[illegible], with little high school education; who has been an Investigator since May 15, 1951 and who is eager to establish why I should be reclassified from Field Investigator GS-11 to Field Investigator GS-12.

I have been an Investigator with the Criminal, Immoral and Narcotic Squads, Investigation Branch, U. S. Immigration & Naturalization Service in Manhattan, since 1957 and with the Service in other areas as an Investigator, since 1951. From 1952 to 1957, I was the Liaison Officer on all criminal prosecutions, between this Service and the U. S. Attorneys for the Southern and Eastern Districts of New York, as well as the District of New Jersey.

My high level Liaison, my hours as Acting Supervisory Investigator and my consistent, continuous work on investigations looking toward revocation of U. S. citizenship, both in the "Top Priority-Racketeer" category and in the lower category, of persons in organized crime and of interest to the Attorney General's Organized Crime Unit, since 1957, is a matter of record.

So that there would be no misunderstanding later, I did not merely talk to your auditor, Mr. Samuel Friedman, about my cases nor did I write a memorandum about them and give it to him prior to discussion, as some did: I brought my entire case-load into the room and presented them and myself to him.

We went over the GS-12 job description (GS-1810-12; General Investigator GS-12; October 1959) together, word for word, and on each of the eleven we both checked the description again. Also, he read each file and many copious notes.

Then and there he and I BOTH agreed that ten of the eleven cases were of GS-12 category and that I spend about 75% of my time each month in GS-12 category work. This was his conclusion, not mine, and I agreed with him. A lie detector test would prove this to be true.

Ct. #- 276812

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A-202

J. Theodore Lazarus

42 Irene Court, Closter, New Jersey 07624

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Thereafter I was appalled to receive a letter from your Regional Office in Manhattan, stating that while I do "SOME" GS-12 work, I don't do enough to qualify for reclassification to GS-12.

Not only was this a distotion of the facts as elicited by YOUR auditor, but equally debilitating was to see that this letter was a duplicated form, with my name typed in, sent to a couple of dozen Investigators and, certainly, did not relate at all to me and my work.

If you have failed to reclassify me in error, or if you have failed to do so because you did not want to place an inordinate financial burden upon our Service, all at once, by, perhaps, reclassifying 30 instead of 11 Investigators, I hope you will so state.

If you or any member of your staff, in Washington or Manhattan, have discussed my audit or the audit in general, with any public or private person, I should think that you would want to have that made known to me. If not, my elementary right of rebuttal has been secretly destroyed.

If my work as an Investigator has been comingled and destroyed because of my being President of our Union, I think that should be spoken of. There is attached a copy of a letter to me from the man in charge of our Service's "reclassification" efforts, Mr. James F. Greene, Deputy Associate Commissioner, Domestic Control, who takes issue with my demand that the Service do away with the Secret Appraisal Report, the Secret Promotion Board and the Secret Promotion Lists. Also attached is a copy of our newsletter, dated February 16, 1967. I invite your attention to page two thereof to show you that one's professional status is, in fact, comingled by this Service with one's Union activity.

I trust that you will agree with me that the controlling factor in an on site audit, in a position classification appeal, is the actual case files then and there assigned to the Investigator appellee, which, in my case, was as close to 100% GS-12 work as one could be and, further, would be the insulating factor in withstanding all subjective abuse, by all concerned.

I look forward with confidence to your analysis of my position, consonant with the FACTS presented by me.

Sincerely yours,

Jack T. Lazarus
Investigator, Immigration & Naturalization Service, 30 W. B'way, N. Y., N. Y. 10007

President, Lodge # 1917,
A.F.G.E.,N.Y.C., AFL/CIO
42 Irene Court
Closter, New Jersey 07624

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A-203

UNITED STATES CIVIL SERVICE COMMISSION

BUREAU OF INSPECTIONS

WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

ICA:APP

YOUR REFERENCE

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FEB 21 1967

Honorable Clifford P. Case
United States Senate
Washington, D. C. 20410

Dear Senator Case:

We have your letter of February 8, 1967, requesting a report on the matter discussed in a telegram addressed to you by Mr. Jack T. Lazarus, President, Lodge #1917, NYC, AFGE, AFL/CIO, 42 Irene Court, Closter, New Jersey. In his telegram, Mr. Lazarus protests the fact that his name has not been included in a list of investigators in the Immigration and Naturalization Service who have been reclassified from GS-11 to GS-12.

A large number of GS-11 investigators, employed in the New York District Office of the Immigration and Naturalization Service, including Mr. Lazarus, appealed the classification of their positions to the New York Region of the Civil Service Commission. After study of the individual work assignments of these employees, the New York Region determined that a number of the investigators spent the preponderance of their time on work of GS-12 level. Accordingly, the Region granted the appeals of those investigators and certified their positions to the employing agency for classification at the GS-12 level.

In many other cases, however, including that of Mr. Lazarus, the New York Region found that the preponderance of time was spent on GS-11 level work. Consequently, the Region denied these appeals.

While the Commission's regional offices have authority to make final decisions for the Commission on all position classification appeals, this Bureau may in its discretion reopen and reconsider any regional office decision. We are acknowledging Mr. Lazarus' telegram which you forwarded, as a request to reopen and reconsider his case. We have asked the Region to forward its file on the case and as soon as this material is received and studied, we will determine if a basis exists for any further action.

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Enclosed for your information is a copy of our letter to Mr. Lazarus notifying him that his telegram would be accepted as a request for reopening.

As soon as any further action is taken, we will advise your office and Mr. Lazarus.

Sincerely yours,

Gilbert A. Schulkind
Director

Enclosure

cc:
Director, New York Region
U. S. Civil Service Commission

Peter 505

A-205

FMFriedman.jlc

11

Mr. Jack T. Lazarus
President, Lodge No. 1917
AFGE, AFL/CIO, New York City
Box 684
New York, New York 10008

Dear Mr. Lazarus:

I have your recent letter objecting to the manner with which we advised you of our decision in your classification appeal. You also requested certain information from your appeal file.

Each appeal decision in each of the Immigration and Naturalization Service investigator cases was based on an individual desk audit and an individual analysis of duties and responsibilities.

It is true that certain bases in the decision letters to the 49 I.N.S. Investigators were mechanically reproduced. The reason for this is very simple; much of the information to be contained in the decision letters was common to several jobs. This was the most economical way to handle the matter.

We do not furnish copies of the materials contained in an appeal file. However, any appellant is welcome to examine his entire file in our office. In addition, Mr. Friedman will be glad to discuss your case with you.

Should you desire to come in and talk over your case, it would be wise to arrange an appointment. Mr. Friedman has had a death in his immediate family and will be unavailable for several days.

Sincerely yours,

L. H. Baer
Regional Director

cc: Associate Commissioner, Management
U.S. Department of Justice
Immigration and Naturalization Service
Washington, D.C. 20536

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cc tufad Mail #-647c50

A-206

J. Theodore Lazarus

42 Irene Court, Closter, New Jersey 07624

1/3/67

Mr. H. H. Baer,
Director, N.Y. Region
U.S. Civil Service Commission
Lewis Bldg. 220 E. 42 St.
New York, New York 10017

Re: PME:JT:mp
Feb. 1, 1967

Dear Mr. Baer,

What you purport to be a letter of decision on the appeal submitted by you and 53 other General Investigators GS-1810-11 employed in the New York District Office of the Immigration and Naturalization Service, is no more than a duplicated form letter of four pages, with my name typed in.

How disgusting it is to make the form letter fit highly individual, highly personal, knowledgeable personal and highly competent investigative Activities.

1/3/67

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J. Theodore Lazarus
42 Irene Court, Closter, New Jersey 07624

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So that a proper appeal may be taken by me, the following is demanded of you:

1. The date the site audit commenced and the date the site audit terminated.
2. A complete copy of the notes made by your auditor in my presence, when I presented all my case file to him for review.
3. A copy of the notes made in conversation by your auditor with my 1st, 2nd and 3rd line supervisor.
4. One copy of the Supplement to the Position Classification Standards for the General Investigating Series, GS-1810-0, for the I & N.S., Dept. of Justice, Washington, the date thereupon.

J. Theodore Lazarus

42 Irene Court, Closter, New Jersey 07624

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5. The copy of the approval of the Supplement by the Civil Service Commission as an extension of the Commission's position classification standards for the General Investigating Series, GS-1810. Please show the date thereof.

6. It is requested that any oral or written message between any level of the U.S. Civil Service and INS relative to this appeal or appeals in general from July 1966 to date, be copied and supplied to me.

7. It is requested that you furnish a duplicate of the GS-1810 job description you used in your evaluation of my appeal.

A-209

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J. Theodore Lazarus

42 Irene Court, Closter, New Jersey 07624

There is attached for easy reference your XEROX or SCM evaluation of my works and the works of my esteemed colleagues; since the only thing that relates to me on it is my name typed in.

Since Mr. Goodman was sent a copy of your copy machine's evaluation of me, I am not forwarding one to him, but I am enclosing two copies of this appeal.

He, I might add, has always displayed the good grace of amusing personnel with three college degrees and many years service, both dignity and with such thoroughness, that even violent disagreement is mitigated by its apparent sense of decency.

Jack Theodore Goodman
(President Emeritus)
AFOE, AFL-CIO, NYC
Box 184, Murray Hill Station

60

A-210

ADDRESS:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING 220 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

IN REPLY PLEASE REFER TO

PME:SF:mp

YOUR REFERENCE

FEB 1 1957

Mr. Jack T. Lazarus
U.S. Immigration and Naturalization
Service
20 West Broadway
New York, N.Y. 10008

Dear Mr. Lazarus:

This is our letter of decision on the appeal submitted by you and 53 other General Investigators GS-1810-11 employed in the New York District Office of the Immigration and Naturalization Service. These appeals were contained in four letters submitted at varying times by groups of employees ranging in size from 2 to 22.

As you know we made a site audit of your position so that we could determine the nature and complexity of the cases assigned to you. We reviewed the results of this audit and the information submitted by you, your co-appellants and your agency, and evaluated it against the Supplement to the Position Classification Standards for the General Investigating Series, GS-1810 C for the Positions in the Immigration and Naturalization Service, Department of Justice. This Supplement was approved by the Civil Service Commission as an extension of the Commission's position classification standards for the General Investigator Series, GS-1810-0.

The letters of appeal with which you are associated claim higher grades because the investigative work performed is of GS-12 caliber, and secondly because positions in other investigative agencies with similar or lesser investigative responsibilities have been assigned GS-12 grades.

We do not compare one position against another in the same or another agency to determine the proper classification. The Classification Act of 1949 which governs the classification of positions requires that "each department shall place each position under its jurisdiction----------in its appropriate class and grade in conformance with standards published by the Commission." We must therefore determine the classification of your position by comparing it against the aforementioned standards.

In your appeal you question the propriety of titling your present job as General Investigator rather than Criminal Investigator. The type of work which you do is specifically covered in the standards for the General Investigating Series. Therefore we can find no basis for changing your title.

The standards for the General Investigating Series point out that "the basic knowledges and skills required by investigators at all levels are essentially the same. All investigators must have a good knowledge of all immigration and nationality laws, and specific knowledge of those directly relating to violations thereunder, as well as specific knowledge of the criminal statutes relating to the enforcement of the immigration and nationality laws. They must keep currently informed of precedent decisions, both judicial and administrative, and of Service policy having a bearing on the enforcement of these laws. They must know and be able to determine when a prima facie case is present for the initiation of either administrative or judicial proceedings within Service jurisdiction. They must be able to analyze cases and plan the course of investigations; adapt methods, techniques, and procedures to meet unusual situations or conditions; be skilled in conducting interrogations, eliciting information from violators or reluctant witnesses and evaluating reliability and credibility of witnesses; in examining records, documents, and other evidence to detect fraud; in tracing and uncovering evidence of assumed or

concealed identities; in reporting facts and distinguishing between relevant and extraneous information; in techniques of unarmed self defense; in the use of firearms; in undercover and surveillance work and in dealing with emergency situations. They must possess ingenuity and resourcefulness in recognizing, developing, and exhausting all leads in a case."

The grades assigned to positions depend upon the types of assignments carried out. The complexity and delicacy; impact on national security, social welfare or economy; scope; and importance of the individuals involved affect the grade of the position. Thus, at the GS-11 levels, assignments "involve multiple issues; have a potential for developing into a number of individual cases; consistently require unusual skill and ingenuity in uncovering and developing facts; and, because of the seriousness of the violations or actions involved, or the prominence of the individuals involved, are either (a) greater in their effect as deterrents to further violations, or (b) have a greater protective value to the economy and security of the country, than the investigative assignments at the next lower level."

At the GS-12 level assignments "are relatively limited in volume------are of the "most complex and delicate nature, where the issues involved have a grave impact on the national security, involve important political, social, or similar implications; or involve persons whose conviction would be of material benefit to the nation's economy, social welfare, or security. The nature of the case assignments is such that the investigations are nationwide in scope, or where less than nationwide, are particularly complex, or the case is extremely important from the standpoint of potential effect on Service-wide operations." At this grade level investigators must be skillful in organizing and planning large-scale investigations, and coordinating multiple investigations conducted at many points within the United States and overseas."

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Many positions contain responsibilities which are classified at different grade levels. In assigning the final grade to such a position, we classify all the significant responsibilities to their appropriate levels, basing the final determination on the level of the duties which occupy a majority of the employee's time. Your position has in it a mixture of cases which are allocable to the GS-11 and GS-12 levels. Although some of your cases involve elements of assignments found at the GS-12 level, e.g., "complexity, delicacy, and impact on the national economy, soical welfare, or security," we did not find that they occupied a majority of your time.

It is our decision that your position is properly classified as General Investigator, GS-1810-11.

Sincerely yours,

T. H. Bass

REGIONAL DIRECTOR

cc: Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D.C. 20536

Mr. Jack T. Lazarus

64

A-214

ADDRESS:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING, 220 EAST FORTY-SECOND ST.
NEW YORK 17, N.Y.

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY
OFFICE OF THE DIRECTOR, NEW YORK 17, N.Y.

IN REPLY PLEASE REFER TO
MS:SW:mb

YOUR REFERENCE

February 1, 1957

80

Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

Dear Mr. Loughran:

Enclosed are copies of our letters of decision on the appeals presented by 48 General Investigators GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Originally there were 54 appeals but four withdrew and two were transferred from the New York Office.

As you will note from the enclosed letters of decision we are [illegible] eleven positions to be reclassified to the GS-12 level. We evaluated the position to the GS-9 level. This evaluation was based on the position as presently constituted. If you [illegible] to assign other duties and responsibilities to the positions you should revaluate it at that time. The remaining 36 positions are unchanged.

We found in our review of the positions that their official position descriptions were not accurate. The standard description used is in effect a copy of the supplemental classification standard for the General Investigator series. Since the standard contains a composite of duties and responsibilities it does not accurately describe the duties and responsibilities of any individual's position. None of the 48 investigators audited worked within a reasonable period on every type of case listed in the position description as typical of that grade level. The position description, to be accurate, should describe specifically the types of cases assigned to that individual, or a technique developed of indicating on the standard description which of several types of cases are being investigated by the individual.

The type of work performed by Messrs. Philbin, Loeber, [illegible], Cookson, Villanova, Gerling, Neun, and Mrs. Warner is not described in any way in their standard position descriptions. We have described their assignments in their individual letters of decision. These assignments should be included in their official position descriptions.

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The position descriptions for Messrs. Soberman and Ford should include also their substantial supervisory responsibilities.

The changes in classification which we are certifying are based on the fact that the incumbent performs GS-12 work for a majority of his time. While an agency is expected to organize its work in any way it feels will help it carry out its mission in the most effective and economical manner, the proper administration of the Classification Act requires that the positions which result be graded with due regard to classification standards. With this in mind we urge you to take all necessary actions to correct the position management problems revealed by the results of these appeals.

Corrective action to classify the position to the proper grade is required and should be effected in accordance with page 511-21 and page 511-23 of the Federal Personnel Manual.

Sincerely yours,

L. W. Baer
Regional Director

Enclosure

WESTERN UNION TELEGRAM

SUA008 433A EST MAR 57 SPOC025 (18)SYA063
SY NC041 NL PD NEWYORK NY 2
GILBERT A SCHULKIND, DIRECTOR BUREAU OF INSPECTIONS
US CIVIL SERVICE COMMISSION WASHDC

54-3 RECEIVED - CSC
1957 MAR -3 AM 8:17

IT SEEMS THAT YOUR AUDIT OF ME AND MY WORK BY YOUR MR SAMUEL FRIEDMAN WAS NOT CONSIDERED WORTHY OF CONSIDERATION BY MR LOUGHRAN AND SO HE HAS CONDUCTED ANOTHER ONE OF ME TODAY(

IN ORDER TO ASSURE THE OUTCOME THEY RIGGED IT BEAUTIFULLY: OUT OF THE BLUE ALL AT ONCE THEY DUMPED 13 TYPICALLY GRADE ELEVEN CASES ON MY DESK. FOR YEARS, BECAUSE OF THE COMPLEXITY THEREOF, I HAVE NEVER CARRIED MORE THAN 11, 12 OR 13 CASES. AS A MATTER OF FACT WHEN YOUR MR FRIEDMAN AUDITED ME I ONLY HAD 11 CASES. ON TOP OF THAT THEY HAVE, FOR THE PAST TWO MONTHS, FAILED TO ASSIGN ONE I REPEAT ONE SINGLE SOLITARY GRADE 12 CASE TO ME.

SO THESE CHILDREN MORE THAN DOUBLED MY CASE LOAD AND WITHHELD

Received 3/5/57
Office of the Director
Bureau of Inspections

WESTERN UNION TELEGRAM

THE USUAL GRADE 12 CASES USUALLYASSIGNED TO ME SO THAT THEY CAN TELL YOU THAT I AM NOW REPEAT NOW DOING 5 OR 10 PERCENT GRADE 12 WORK AND THEY WILL THINK THAT THEY HAVE EFFECTIVELY BURIED THE PRESIDENT OF THE UNION WHO HAS SPARKED OUR SERVICES PERSONNEL ALL OVER THE COUNTRYTO ACT AGAINST MR LOUGHRANS MEDIEVAL ADMINISTRATION: WITH HIS SECRET APPRAISAL REPORTS SECRET PROMOTION BOARDS AND SECRET PROMOTION LISTS.

FOR YEARS I NEVER CARRIED MORE THAN 13 OR 14 CASES DUE TO THE COMPLEXITY OF THEM. MR FRIEDMAN SAW THAT I HAD ELEVEN CASES WHEN HE AUDITED ME THREE MONTHS AGO AND THAT TEN OF THEM WERE GRADE 12 WORK WHY DID THEY ALL AT ONCE DOUBLE MY CASE LOAD AND AT THE SAME TIME WATER IT DOWN TO NOTHING BY ASSIGNING FIFTEEN GRADE 11 CASES TO ME AND WITHHOLDING ALL GRADE 12 ASSIGNMENTS FROM ME FOR THE PAST TWO MONTHS.

WESTERN UNION TELEGRAM

DO THEY THINK THAT YOU WILL NOT DARE TO QUESTION THEIR SKULLDUGGERY.

I KNOW THAT YOUVE BEEN AROUND A LONG TIME AND YOU AS THE IMPARTIAL ARBITER THE IMPARTIAL THIRD PAAAAXXX PARTY WILL NOT ALLOW MR LOUGHRAN TO SUBSTITUTE HIS AUDIT TODAY FOR YOUR ON SITE AUDIT OF THREE MONTHS AGO.

MR LOUGHRAN WILL JUST HAVE TO ACCLAMATE HIMSELF TO THE FACT THERE IS A FEDERATION OF GOVERNMENT EMPLOYEES

WESTERN UNION TELEGRAM

AAAAAAND THAT BY TRYING TO DECAPITATE THE HEAD OF THE PRESIDENT OF THE UNION, HE WILL ACHIEVE VERY LITTLE

MR JACK T LAZARUS PRESIDENT A F G E LODGE #1917 AFL CIO NYC IMMIGRATION & NATURALIZATION EMPLOYEES 42 IRENE COURT CLOSTER NEW JERSEY 07624

WESTERN UNION TELEGRAM

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BUREAU OF INSPECTIONS
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May 6, 1966

Mr. L. H. Baer:

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In accordance with outstanding instructions, herewith formal request for position audit.

Those Investigators, GS-11, who have signed the attached request, are representative of the P.&P., Search, Special and General Investigations Sections, which comprise the Investigations Branch, N. Y. District Office, U. S. Immigration & Naturalization Service, 21 West Broadway, New York, New York 10007.

Appreciative,

Investigator Jack T. Lazarus, GS-11
Phone: 264-5929

President, Lodge # 1917, AFGE - NYC
AFL-CIO
XØ

Home: 42 Irene Court, Closter, New Jersey 07624
Phone: 201-768-5511

Reg. Mail # 313116

85

To U.S. Civil Service Commission 4/5/

from G.S.A. Investigations
U.S. Treasury Dept. Service 4/5/

SUBJECT Position Audit, Request Thereof

Jack T Lazarus - JACK T. LAZARUS

[redacted] - [redacted]

[illegible] - GEORGE T. GAITI

[illegible] - FRANK G. HAYDEN

[illegible] - Herbert A. Steve[illegible]

[illegible] - [illegible]

[redacted] - [redacted]

[illegible] - Kellogg Whitehead

[redacted] - [redacted]

John G McKenzie - John G. McKenzie

[illegible] - J M McAvoy

Frank E Benning - FRANK E. BENNING

Robert Hoffman - ROBERT HOFFMAN

James J Rowland - JAMES J. ROWLAND

Benjamin Beller - BENJAMIN BELLER

Abraham Goodman - ABRAHAM GOODMAN

[illegible] Steckler - SAMUEL STECKLER

Max Gottlieb - MAX GOTTLIEB

[illegible] - Jesse R Peterson

[illegible] - William J. Horan

[illegible] - Louis J Gillette

List of Additional Appellants

George T. Gatti
Frank G. Hayden
Herbert A. Stevenson
Joseph S. D'Amico
Kellog H. Whittick
John G. McKenzie
J. M. McAveney
Frank E. Bonomio
Robert Hoffmann
James J. Rowland
Benjamin Boller
Abraham Goodman
Samuel Stockler
Max Gottlieb
Jesse R. Peterson
William J. Honan
Louis J. Calemine

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May 22, 1966

To: Regional Commissioner
U.S. Civil Service Commission
New York, New York

I WISH TO BE JOINED TO THE APPEAL MADE BY JACK I. HAZARUS AND SEVENTEEN OTHERS.

Vincent A. Burke	NP	GS 11
~~[illegible]~~		GS 11
[illegible]	NP	GS-11
Bernard Leberman	Veterans	GS-11
[illegible]	Spec.	GS-11
[illegible]	Spec.	GS-11
John P. Reilly	Spec.	GS-11
Patrick J. Connelly	Spec	GS-11
Oscar H. Colton	Spec.	GS-11
Joseph Judge	Spec	GS-11
Robert A. Wilson	Spec	GS-11
[illegible]	Spec	GS-11
[illegible]	Spec.	GS-11
Alma Hutzler	P&P	GS-11
[illegible]	P&P	GS-11

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91

Clarence L Thiem — 7+P — GS-11

~~Benjamin Beller~~ — GS-11

~~[illegible] Coleman~~ — GS-11

William C Kaelin — 7+P — GS-11

Joseph E Donelle — GS-11

~~Jim Mc Cuiney~~ — GS-11

Frank E. Stone — 7+P — GS 11

Samuel U Cleaver — 7+P — GS 11

X ~~William M Mc Grael~~ — GS-9

~~C W Pangburn~~ Spec — GS-11

X ~~Harold W. Beers~~ — GS-9

~~Thomas J Callahan~~ — GS-11 — unique job

Alexander Hasterlik Asst Dir. GS-11

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92 U. S. IMMIGRATION and NATURALIZATION SERVICE EMPLOYEES
LODGE NO. 1917
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
(Affiliated with the AFL-CIO)
P. O. BOX 153, CHURCH ST. STATION
NEW YORK 8, N. Y.

Mr. Samuel Friedman
Program & Management Review
US Civil Service Commission
220 E. 42nd Street, NYC 10017

July 13,1966

Dear Sir,

Various investigators of the INS have instituted appeals of their titles and position classification under Title V of the Classification Act of 1949.This lodge is forwarding to you attachments to this report which we hope you will carefully study and use in making your evaluation. This information pertains to our mass appeal that asks for an audit of journeymen grades of INS investigators. Please find the following attachments:

(1) A letter from Mr. Seymour Berliner dated June 12,1963. Mr. Berliner was Director of the US Civil Service Bureau of Inspections. This letter states that the INS supplement was approved for the establishment of GS-12 non-supervisory field investigators.

(2) A letter from Mr. E.A.Loughran, Assoc. Commissioner Management, INS, in which he states that when GS-12 level responsibility occurs during investigations, they are assigned to incumbents of the supervisory GS-12 positions.

(3) A comparative chart prepared by members of this lodge, showing by comparison,the investigational activity and responsibility of GS-11 INS investigators as compared to GS-12 investigators of the Treasury Department, State Department and the FBI.

(4) Position classification descriptions of all of the investigators compared in the above chart.

(5) A statement of the activities of investigators of the INS who are assigned specific duties in the Criminal, Narcotic,Immoral and Racketeer categories.

(6) A statement of the activity of investigators in the INS who are assigned to the various Subversive category investigations.

Attachment (1) is merely to indicate to you that the Civil Service Commission did approve specific standards for a GS-12 field investigator. Your audit will substantiate the fact that the duties contained in this position classification have been performed by GS-11 investigators of the INS since 1959. The INS management has arbitrarily chosen to refuse to promote investigators above the GS-11 level despite the level of difficulty they perform. If you will read attachment (2) you will see Mr. Loughran telling the National President of this Union his answer, "GS-12 supervisors do it." Your inquiry will reveal that supervisors investigate no cases and are assigned none. GS-11 is the highest grade any field investigator possesses.

7/14/66

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The comparative chart, attachment(3), clearly and accurately demonstrates the the INS investigator is on a par, if not more versatile and active, than other Federal investigators GS-12 in grade. You can clearly see that the INS performs all of the vital and important investigative functions, in addition to those that are exclusively his area of responsibiltiy. You can relate in the chart, any other duties performed by an FBI Agent to what the INS investigator does and vice versa. We hope you will notice that the following very important functions of the INS men are exclusive functions:

1- Preparation of Orders to Show Cause Applications
2- Investigation of Congressional Private Bills
3- Investigations for purpose of revoking US Citizenship.
4- Investigation and Apprehension of Foreign Criminals and Escapees.
5- Prevention of Departure of persons whose departure is not in the best interests of the United States.

Your conclusion from the chart can only be that INS investigators are at the worse, on a par with other investigators in the Federal Service, operation-wise. Are we not then to be given comparable titles,grades, and salaries? It doesnt take much to realize that since INS investigators are concerned with every phase partaining to such a large segment of society, aliens, they must in essence be prepared and qualified to meet all of these phases and the problems that arise. It then follows that the INS investigator is also the enforcement officer of thislarge segment, aliens, recording all of their misfortunes,troubles and violations of Immigration and Nationality laws. The case for calling the INS investigator a Criminal Investigator is such a ridiculous arguement, that we leave that issue to your good judgement without further discussion.

Attachment(4) contains the position classification descriptions of all of the other Federal Investigators compared to the INS men in the comparative chart of attachment(3). We enclose these so that you can see for yourself that the respective job descriptions of the other investigators, who are GS-12 in grade, is comparable to the descriptions in the GS-11 INS description attached. It appears that the INS takes the position that the INS is the only agency in the Federal government where no GS-12 level of difficulty work occurs or is encountered. Your audit will debunk that theory!

Attachments(5) and (6) concern themselves with the specific duties of personnel assigned to Special Investigations either Subversive or of the Criminal, Immoral, Narcotic category. Recently Mr. Macy replying to members of the Congress about the audit conducted in the New York Office of the INS in 1963, remarked that the recommendations made in the Report issued at that time, referred to only"a small number of GS-11 investigators who were found to be typically assigned the most complex cases in the office". We are you sure you are acquainted with that Report, and if you will examine it you will observe that their is no mention of the Special Investigations Section of the New York District office. We have attached, therefore, detailed compilations of these two parts of Special Investigations so that you will realize , pre-audit, that these two groups are important to understand.

Your audit will reveal GS-11 investigators on all sides of the floor engaged in many cases which are handled by each individual simultaneously with a usual caseload of from 20 to 30 cases. It is a fact that you will also discover, that the average investigator in the New York Office will investigate in a year, as many cases as most of the INS Districts will handle in a year! All types of cases are encountered and resolved; Frauds of all nature, some singular, some multiple in subject and issue; conspiracies; criminal violations; subversive investigations in order to deport or exclude; top priority investigations of racketeers or others; smuggling rings; de-naturalization attempts for various causes; investigations to revoke visas or to prevent issuance of visas by the Department of State. The INS investigator must be able to perform any of these type complex investigations and no "small number" is assigned of only the complex cases that arise. Your audit team will soon learn that cases do not become complex until they are investigated fully or the facts are collected which make it complex and top level. The simplest case may mushroom into a grandiose conspiracy or fraud with many subjects and issues, while what appears initially to be a broad multiple subject case, may be quickly resolved. We challenge anyone to pick out a case and decide how it will be resolved or if it is a GS-11 or GS-12 level case, before the facts are in.

Speaking frankly, we are at a loss to understand the attitude of our own management that relegates its' own career employees to second class status. Since 1959 our work has become more specialized with our caseloads larger. Presently we are understaffed and continually asked to take up the slack of positions never filled. We do this without complaints since we believe it to be our duty but we cannot see why we should be forced to appeal to the Civil Service Commission in order to obtain the obvious--comparative grades to those of other Federal Investigators.

Practically in desparation and with no other administrative hope, hundreds of INS investigators all over the United States depend on your audits and conclusions. The responsibility is great and we hope you realize the urgency and need for a comprehensive study. The merit system is on trial here as well as chance to restore to employees with many years of faithful service, their morale and faith. Please call on us for anything that we can do to aid you.

Very Truly yours,
For the whole lodge,

Jack T. Lazarus

Jack T. Lazarus President

P INCOMING

A-226

UNITED STATES CIVIL SERVICE COMMISSION

BUREAU OF INSPECTIONS

WASHINGTON 25, D.C.

IN REPLY PLEASE REFER TO

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YOUR REFERENCE

JUN 12 1963

Mr. Steve Greenman, President
U. S. Immigration and Naturalization
Service Employees
Lodge No. 1917
P. O. Box 153, Church Street Station
New York 8, New York

Dear Mr. Greenman:

Your letter of April 21, 1963, asks whether the Civil Service Commission has authorized the Immigration and Naturalization Service to utilize GS-12 "field investigators."

In June 1958, the Commission issued general standards for the classification of investigator positions. Each agency was invited to prepare its own specific standards, following the general standards issued by the Commission, and to submit them to the Civil Service Commission for review and approval. The Immigration Service did submit specific standards to the Commission, and these were approved in October 1959.

These specific standards provided for a non-supervisory investigator position in grade GS-12.

In approving standards for GS-12, the Commission did not, in fact, authorize such positions but simply approved standards for the classification of such positions when, and if, they were established by the Immigration and Naturalization Service. How many such positions should be established and at what location is a matter to be determined by the Immigration and Naturalization Service.

I suggest that you get in touch with the Immigration and Naturalization Service either in New York or in Washington for specific information about the number of non-supervisory GS-12 positions, if any, and their locations.

Sincerely yours,

Seymour S. Berlin

Seymour S. Berlin
Director

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ATTACHMENT 2

A-227

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CO 612.1-0

JUL 17 1963

Mr. J. F. Griner, National President
American Federation of Government Employees
900 F Street, N.W.
Washington 4, D. C.

Dear Mr. Griner:

Your recent letter inquires as to whether or not we plan to establish non-supervisory [illegible] positions at the GS-12 level. When responsibilities occur at that level they are assigned to [illegible] or supervisory positions at the GS-12 level. We do not contemplate establishing any GS-12 journeyman positions at this time.

We appreciate the opportunity to clarify this matter for your members.

Sincerely,

E. A. Loughran

E. A. Loughran,
Associate Commissioner, Management

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INVESTIGATOR ACTIVITY COMPARISONS

Investigational Activity	US INS GS-11	U.S. TREAS. CUSTOMS GS-12	U.S. TREAS. NARCOT GS-12	U.S. TREAS. ATU-IRS GS-12	DEPT. of STATE GS-12	IRS INTELL GS-12	IRS INSPEC GS-12	FBI GS-12
Non-Supervisory Field Investigator	YES	YES	YES	YES	YES	YES	YES	YES
Carries Firearms	YES	YES	YES	YES	YES	YES	YES	YES
Eligible for 50-20 Retirement	YES	YES	YES	YES	YES	YES	YES	YES
Arrests with or without warrants	YES	YES	YES	YES	YES	YES	YES	YES
Prepares Orders to Show Cause	YES	NO	NO	NO	NO	NO	NO	NO
Investigates Top Priority Racketeers	YES	YES	YES	YES	YES	YES	NO	YES
Investigates Fraud and Conspiracy Cases	YES	YES	YES	YES	YES	YES	YES	YES
Investigates Mobs, Syndicates, Criminals	YES	YES	YES	YES	YES	YES	NO	YES
Apprehends Escapees & Criminals from Foreign Countries	YES	NO	NO	NO	NO	NO	NO	YES
Conducts Investigations with Interpool	YES	YES	YES	NO	NO	NO	NO	YES
Conducts Formal Hearings	YES	YES	NO	NO	YES	NO	YES	NO
Investigates Subversive & Security Cases	YES	NO	NO	NO	YES	NO	NO	YES
Needs knowledge of Foreign Laws & Regul.	YES	YES	YES	NO	YES	NO	NO	YES
Must know State & Local Laws & Ordinanc.	YES	YES	YES	YES	NO	YES	NO	YES
Executes Prosecution Reports for US Atty.	YES	NO	NO	NO	YES	NO	NO	YES

Investigational Activity	US INS GS-11	U.S. TREAS. CUSTOMS GS-12	U.S. TREAS NARCOT GS-12	U.S. TREAS ATU-IRS GS-12	DEPT OF STATE GS-12	IRS INTELL GS-12	IRS INSPEC GS-12	FBI GS-12
Has Security clearance to handle Secret & Confidential work	YES	NO	NO	NO	YES	NO	NO	YES
Investigates all classes of persons classified immoral	YES	NO	NO	NO	NO	NO	NO	YES
Boards & Searches all types of transport conveyances	YES	YES	NO	NO	NO	NO	NO	NO
Knowledge of Search & Seizure Laws	YES	YES	YES	YES	YES	YES	YES	YES
Prevents Departure of Persons at request of US Gov't. Agencies	YES	NO	NO	NO	NO	NO	NO	NO
Detains and Questions persons for other Agencies or Governments	YES	YES	YES	NO	NO	NO	NO	NO
Compiles information of Subversive Organizations or persons	YES	NO	NO	NO	NO	NO	NO	YES
Investigates Private Bills in the Congress	YES	NO	NO	NO	NO	NO	NO	NO
Testifies at US Court actions and Hearings	YES	YES	YES	YES	YES	YES	YES	YES
works undercover to make arrests or to obtain information	YES	YES	YES	YES	YES	YES	YES	YES
Investigates for the purpose of revoking US Citizenship	YES	NO	NO	NO	NO	NO	NO	NO
Makes joint arrests with other Investigat.	YES	YES	YES	YES	YES	YES	YES	YES
Makes recommendations to District Directors	YES	YES	NO	NO	YES	NO	YES	NO
Acts Occasionally as Supervisor of Group	YES	YES	YES	YES	YES	YES	YES	YES
		10-NO	13-NO	16-NO	11-NO	16-NO	17-NO	8 NO

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Attachment-[4] INS - GS-11

Optional Form 8
February 1958
U. S. CIVIL SERVICE COMMISSION
Chapter PM, Federal Personnel Manual

POSITION DESCRIPTION

1. Department [illegible]	4. Agency position No.
2. Reason for submission: (a) If this position replaces another (i. e., a change of duties in an existing position), identify each position by title, allocation (service, series, grade), and position number	5. C. S. C. Identification No.
	6. Date of certification
3. CLASSIFICATION ACTION (b) Other (specify) New	7. Date received from C. S. C.

ALLOCATION BY	CLASS TITLE OF POSITION	CLASS Service	Series	Grade	INITIALS	DATE
a. Civil Service Commission						
b. Department, agency, or establishment						
c. Bureau	General Investigator	GS	1810	11	WSL	1-17-61
d. Field office						
e. Recommended by initiating office						

9. Organizational title of position (if any)	10. Name of employee (If vacancy, specify V-1, 2, 3, or 4)

11. Department, agency, or establishment: Department of Justice	c. Third subdivision: All Districts
a. First subdivision: Immigration and Naturalization Service	d. Fourth subdivision:
b. Second subdivision: All-Regions	e. Fifth subdivision: 11

12. This is a complete and accurate description of the duties and responsibilities of my position

(Signature of employee) (Date)

13. This is a complete and accurate description of the duties and responsibilities of this position

(Signature of immediate supervisor) (Date)

Title:

14. Certification by head of bureau, division, field office, or designated representative

Mario J. Noto (Signature) 1-17-61 (Date)

Title: Assistant Commissioner, Investigations

15. Certification by department, agency, or establishment

E. A. Loughran (Signature) 1-17-61 (Date)

Title: Associate Commissioner, Management

16. Description of duties and responsibilities (See Guide to Position Classifiers, Employees, and Supervisors for the Preparation of Position Descriptions, Standard Form No. 75A.

I. INTRODUCTION:

Under general supervision of a higher grade investigator or other officer of the Service, incumbent plans and conducts investigations under the criminal and statutory provisions of the Immigration and Nationality laws.

II. DUTIES AND RESPONSIBILITIES:

1. Individually conducts investigations which generally involve multiple issues; have a potential for developing into a number of individual investigations; concern serious violations; or directly affect individuals who have achieved prominence. Typical assignments include investigations involving:

   a. Development of facts and evidence for the initiation of proceedings for revocation of naturalization;

If more space is required, use the other side and additional pages. Use 8 x 10½ 16—47700-4

b. Applicants for naturalization or other citizenship benefits whose allegations or facts preliminarily developed appear to be sufficient in scope and substance to warrant the conduct of a full field investigation as to the eligibility of the applicants for the benefits sought, or to establish their deportability;

c. Alleged fraudulent marriages entered into for the purpose of securing entry into the United States;

d. Aliens of the subversive, criminal, and immoral classes believed to be deportable;

e. Document frauds where there is some evidence of a conspiracy, or of widespread scope;

f. Claims or allegations of alienage or citizenship involving unusual difficulties in establishing the true status of the individual, where extensive investigations are required to establish expatriation, to establish or refute claims of identity and relationship, or to establish or refute claims of origin;

g. Changes in immigration status, revocation of parole, and other similar actions, where one or more individuals are involved, and the facts are difficult to establish because of the absence of records, and the difficulty of locating credible witnesses;

h. Smuggling cases where wide-scale conspiracy or smuggling rings are engaged in smuggling members of specific nationality or occupational groups;

i. Development of evidence in difficult cases looking toward prosecution under the penal provisions of the immigration and nationality laws; and related violations under the criminal code;

j. Re-defector cases involving the security and welfare of the United States: Ordinarily at this level these do not involve delicate diplomatic considerations;

k. Identification of individuals' names in various crime commission investigations, and development of sufficient evidence to establish their citizenship or alienage and status in support of revocation of naturalization or deportation proceedings where appropriate, or criminal proceedings under the penal provisions of the governing laws;

l. Complaints of illegal use of, or mistreatment of, agricultural laborers, or violations of compliance with controlling laws, rules, and regulations, where such investigations require dealing with labor representatives, and representatives of foreign agricultural organizations or governments.

2. As assigned, presents the Service's position in less difficult exclusion and deportation cases. Reviews applications for Orders to Show Cause for completeness and consistency and for compliance with Service policy; directs further investigation where necessary; determines whether administrative remedies are available which would preclude the necessity for a hearing; prepares Orders to Show Cause where facts warrant such action; and performs other related duties required in the development and presentation of the Service's viewpoint.

3. Supervises, coordinates and controls the activities of other investigators of equal or lower grade assigned to assist in the development of the various phases of the investigation, and resolves jurisdictional conflicts, except in unusual instances.

4. Periodically is assigned as leader of a group of investigators of the same or lower grade. In such instances is responsible for the distribution of the work assigned to the group, coordinating and controlling the completion of cases, and furnishing leadership and guidance in the resolution of jurisdictional problems and interpretation and application of laws, rules and regulations. Review of reports and recommendations made by the investigators composing the group is limited to ascertaining compliance with outstanding instructions, complete review being made by a higher grade officer.

III. SUPERVISION AND GUIDANCE RECEIVED:

The incumbent is guided by the Immigration and Nationality laws, rules and regulations, the Administrative Manual, and the Investigations Handbook. He determines the scope of the investigation, the necessity for the conduct of auxiliary investigations, contacts, interviews and interrogations to be made, and inquiries of prospective witnesses or others who may be involved; resolves jurisdictional conflicts, except in cases requiring policy decisions or establishing precedents of wide spread application, which are referred to superior for resolution.

He is responsible for reporting and recommending the full course of action to be taken to complete the disposition of the cases assigned, giving due consideration to availability of administrative remedies and possibility of successful prosecution.

He usually receives no instructions at the time of assignment other than advice as to any specific policies or program emphasis which may have a bearing on the investigation. He determines his own plan of action; requests the assignment of and directs, coordinates and controls the work of other investigators assigned to assist.

Review of investigative work is accomplished through evaluation of periodic and closing reports, interim discussions and soundness of judgment exercised as reflected in recommendations made and results accomplished.

Orders to Show Cause are reviewed by a higher grade investigator or other officer prior to issuance. Where the proposed plan of presentation of a case contemplates a novel or unprecedented course of action, the plan is discussed with and approval obtained from the supervisor prior to the presentation of the case.

IV. MENTAL DEMANDS AND ABILITIES:

He must have a good knowledge of all Immigration and Nationality laws, and specific knowledge of those directly relating to violations thereunder, as well as the criminal statutes relating to the enforcement of the Immigration and Nationality laws. He must keep currently informed of precedent decisions, both judicial and administrative, and of Service policy having a bearing on the enforcement of these laws. He is required to have a good knowledge of Customs laws and regulations relating to search and seizure and the responsibilities and authorities of other law enforcement agencies on the Federal, State and local levels, as well as a good knowledge of and ability to interpret and apply foreign laws as they relate to cases assigned.

He must be highly skilled in conducting interrogations, eliciting information from violators or reluctant witnesses, and in evaluating reliability and credibility of witnesses; in detecting frauds and tracing and uncovering evidence which has been carefully and effectively concealed; in reporting facts, distinguishing between relevant and extraneous information, and weighing evidence and making sound decisions and recommendations.

V. OTHER RELATING FACTORS:

Incumbent is authorized to apprehend and arrest without warrant, request the issuance of warrants of arrest or Orders to Show Cause; take depositions under oath, pay out monies for information within specified limits; present the Service position in cases before the U. S. Commissioner and the Grand Jury; and serve as a witness for the Government during judicial hearings involving investigations in which he has participated. He is also authorized to prepare Orders to Show Cause.

He must be able to deal effectively with individuals of all levels of the social and economic scale; adapt procedures and practices to meet immediate needs; and exercise ingenuity and resourcefulness in overcoming adverse attitudes and developing information and evidence.

ATTACHMENT 15

A-234

165 REQUEST AUDIT FOR CLASSIFICATION OF USINS INVESTIGATORS PRESENTLY GENERAL INVESTIGATORS GS-11, GENERAL FIELD GRADE TO THAT OF CRIMINAL INVESTIGATOR GS-12 AND GS-13 Field Grade

On June 30 ,1966 the following Investigators of the INS at New York,NY submitted an appeal of their Title and Position Classification.
Edward Kavazanjian Edward A.Bertele Jack Ricciardi Earl Swift
Edward Barnette Arthur Giddings Joseph Sena John Norris
Robert Honan Robert Bishop George Tarrant Ellsworth Billard
Frank Benemio Jack T.Lazarus
All are Investigators assigned to the Special Investigations Section, Criminal, Immoral, Narcotic, and Racketeer category. We would like to make the following statement pertaining to the specific duties of men assigned to our unit,for purposes of aiding our appeal.

Criminal, Immoral, Narcotic, and Racketeer (referred to as CIN) investigations are conducted by the INS as active participation in the national over-all determination to restrain vice and corruption. The Attorney-General has called on all agencies to unite in a concerted drive that will narrow the scope of racketeering, reduce its resources of income and remove organized crime from the national scene. To this end, the INS is pledged and dedicated using the weapons of Deportation, Exclusion, and Prosecution. To carry out this function, investigators assigned to the Criminal Immoral, Narcotic and Racketeer investigations are deployed throughout the USA and in contact with Immigration Officers all over the world. A close liason is maintained with all other Federal Agencies since the INS investigator is responsible for the millions of aliens residing in the nation and maintains records and files of each alien.

The CIN investigator must have a thorough knowledge and clear understanding of the scope of organized crime if he is to be succesful. Organized crime breeds and thrives on the infiltration by criminals into unions, legitimate businesses, government, and every walk of life. Crime is organized and syndicated to an extent that the racketeer and mobster may be difficult to locate or identify. We find that no corner of American life is immune to underworld penetration and the underworld is no longer an ugly hood, but independent power vying with other great classes for power and wealth.

It is therefore obvious that the CIN investigator must become a specialist in his field if he is to exist, and especially in New York. He will be expected to carry a case load of from 20 to 30 cases , all of different nature and all requiring skill, patience, and determination. Cases will involve foreign criminals who have escaped or are wanted;narcotic addicts, dealers and conspirators; homosexuals,prostitutes,pimps and all type of perverts; confidence men, pickpockets, shoplifters and petty thieves; burglars,safecrackers,armed robbers; and all other type of law violators. He will investigate side by side with Treasury Agents, FBI Agents, and local police officers when aliens are involved since he has the probable cause to arrest and search without a warrant. He will handle complex, diverse, multiple Subject and multiple issue investigations that will involve other countries and districts. He will conduct surveillances, searches, make arrests, write up prosecution reports, serve warrants and

orders to show cause, and be possessed of a knowledge of the Federal Code of Criminal Procedure and the rules of evidence.

He will be assigned many cases designated by the Commissioner or the Attorney-General as Top Priority and usually involving racketeers. These type of investigations require weekly or monthly reports and usually involve an attempt to deport, exclude or de-naturalize a racketeer which no other Federal or local jurisdiction can control or neutralize. The INS Investigators Manual states that the CIN investigator "must attain perfection in the taking of sworn statements" and he is one of the few Federal investigators authorized to conduct formal hearings used as a basis for all types of decisions or adjudications. He must be able to execute reports for use by trial attorneys, hearing officers of the INS, Federal Attorneys and Judges, and other Federal officials. He must be able to relate laws and decisions to various Immigration and Nationality Laws which will require legal research and review. The INS investigator is the only person who may apply for an order to show cause in the Service.

INS investigators are responsible for the location and apprehension of aliens who are erroneously granted visas by the US State Department consuls all over the world. Such investigations are of the utmost importance and reports are forwarded to the State Department for information and evaluation. The INS investigator is responsible for the investigation of persons whose fitness for administrative relief is in question. All applicants for INS action are also acted upon if required.

If frauds are uncovered during criminal type investigations they are then handled by the CIN investigator as dual issue cases. He is constantly in the state and local courts to advise judges, District Attorneys, Probation and Parole Officers, penal officials and all other types of law enforcement officers. He carries firearms at all times and is expected to be proficient in their use by periodic qualification. He may be called to aid US Marshals in maintaining order in Federal Courts or in aiding the Secret Service guard the President of the United States.

CONCLUSION

The Investigator of the Criminal, Immoral, Narcotic, and Racketeer category is without a doubt a true criminal investigator. Every phase of his work is of a criminal or law enforcement nature. His work is of the highest level of responsibility which occurs in the Federal Law enforcement system. He is involved in investigating every conceivable kind of criminal action or violation in addition to the violations of the United States Code having to do with the specific laws he enforces.

The level of difficulty of work he performs is, as in every other Federal Agency, of the GS-12 and GS-13 level and he is entitled to these grades if he performs those duties. Because his agency arbitrarily prohibits his becoming a GS-12 or GS-13, should be no bar to his being made a GS-12 or 13.

A-236

ATTACHMENT 6

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REQUEST AUDIT FOR RECLASSIFICATION
OF USINS INVESTIGATORS GS-11, GENERAL FIELD GRADE
TO THAT OF CRIMINAL INVESTIGATOR OR SPECIAL AGENT,
GS-12 and 13, FIELD GRADE

The investigators of the New York Subversive Section, Special Investigations, U. S. Immigration and Naturalization Service strongly feel their investigative duties and responsibilities are such that an immediate reclassification, as indicated above, is warranted.

The scope of subversive investigations, as currently performed by GS-11 General Field Grade Investigators of USINS are fully and completely within those duties as described in U. S. Civil Service Classification for Grades GS-12 and 13.

A sample of the duties and functions as performed by GS-11 General Field Grade Investigators of the Subversive Section, Special Investigations of USINS, is as follows:

Investigators conduct security type investigations on the same subjects and which are of equal complexity and diversity as those conducted by Special Agents of the Federal Bureau of Investigation whose agents are Field Grade GS-12 and GS-13. It is to be noted that investigative reports are exchanged and a close liaison maintained by both agencies in matters concerning subversion.

Other agencies of the Government which conduct Intelligence and Security type investigations and disseminate information to USINS relating to activities of foreign political organizations and individuals in the subversive category. Investigation relating to those individuals who may be members of political organizations is initiated and conducted by the Subversive Section, Special Investigations, with those other agencies being kept informed of investigative developments.

The Security Division of the Department of State, on all occasions where the Subject is in the United States, requests USINS to investigate the possible subversives who have made application to enter the United States, either for permanent residence or as visitors. On many occasions requests for investigation are also made when the Subject is outside the United States.

The necessary investigation is then conducted, and based upon the results of such investigation the Department of State will either issue or deny the applicant such visa.

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The aforementioned investigation is generally complex in nature and is often conducted on a national and international scale.

PARTICULAR INVESTIGATIONS OF PRIME IMPORTANCE TO NATIONAL SECURITY

No Service Investigations are as important to, or have greater effect on national security as subversive investigations. A most important function of the subversive investigator is the investigation of Aliens who, because of the nature of their activities, pose a dire threat to the security and welfare of the United States. The compilation of evidence upon which to base deportation proceedings, and the location and apprehension of these aliens must be expeditiously handled so that prompt action is taken toward enforcing their departure from the United States.

In certain instances where it is not possible or practical to institute immediate deportation proceedings against aliens considered to be security risks, the subversive investigator must keep abreast of the whereabouts of such aliens, sometimes in a discreet manner either by surveillance or other suitable means. He has the responsibility of knowing the current location of these aliens so that appropriate action may be taken to maintain the security of the nation during any national emergency and at all other times.

SENSITIVITY OF SUBVERSIVE INVESTIGATIONS

A factor that is almost unique to subversive investigations and which occurs in a higher proportion of cases as compared to most other types of investigation, is the high degree of sensitivity involved therein. Most of the subjects of subversive investigations are actively engaged in or are interested in political matters either in the United States or abroad. Many persons contacted during the investigations have political ideologies ranging from the extreme right to the extreme left, with various shades in between. The subversive investigator often comes in contact with present foreign government officials, government officials in exile, and other prominent persons who may be future leaders of foreign governments. It is incumbent that the investigator handle these investigations with extreme care and skill so that the enforcement of the Immigration and Nationality laws is effectively carried out without adversely goodwill toward the United States.

In view of the fact that so many persons contacted are prominent, or are persons engaged in political controversies, or are persons engaged in intelligence operations, the investigator has to be aware of and avoid publicity, either favorable or unfavorable.

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RESPONSIBILITY FOR SECURITY CLASSIFICATION

The investigator is constantly dealing with classified information affecting the national security. The utmost efficiency, knowledge and skill of the investigator is necessary since these matters concern national security. Factual reports must be prepared, involving classified information, for admission as evidence in a deportation hearing or for prosecution in a court of law. Caution and discretion must be exercised to allow maximum protection of classified information so as not to disclose the original source or text, in compliance with National Security Regulations.

INTERROGATION

The Investigator in almost all instances must take a sworn statement during the course of a subversive investigation. Interrogation under oath in a subversive matter is lengthy and complex. The Investigator taking such sworn statement must be fully knowledgeable of the subversive organization or organizations, its activities, officers, members, and political ideologies of the countries involved, in order to intelligently and successfully interrogate a Subject. Thorough knowledge of the Immigration and Nationality laws and other pertinent laws is prerequisite in order for the Investigator to properly guide and control the interrogation.

Skillful methods and techniques must be employed, and such specialties are acquired only through years of specialized experience. Such interrogations are in many instances the basis for the institution of deportation and/or criminal proceedings against the Subject involved.

Subjects of Subversive Investigations are almost always represented by attorneys, and it is therefore of utmost importance that the Investigator be fully aware of proper procedure so as not to violate the Constitutional Rights of the Subject. This situation is further magnified in those cases where the Subject concerned may be amenable to Se[illegible]e or criminal proceedings, and it is significant to bear in mind that the investigator must be fully knowledgeable of the rules of evidence.

DEFECTORS

Investigat[illegible]s interview defectors from foreign countries whose political philosophy is diametrically opposed to that of the United States. The information garnered from those individuals is directly beneficial to the security and well-being of the United States.

III

ORGANIZATIONS

It is the responsibility of the Investigator to gather, collate, analyze, and compile all available evidence for the purpose of presenting such material for consideration to prescribe subversive organizations within the purview of the Immigration and Nationality Act. In connection herewith, detailed and comprehensive investigations are conducted concerning members and officers, many of whom are aliens or naturalized United States citizens, whose activities may be inimical to the best interest and security of the United States.

Such compilations, by their very nature, are lengthy and complex and have far-reaching consequences. The end result of a compilation may be the proscribing of such questionable organization by the Attorney General of the United States, based upon investigation of some or all of its officers or members.

To accomplish proscription the Investigator must delve deeply into areas with which he, at the outset, may not be thoroughly familiar. It is necessary that he do research so that he becomes knowledgeable of the aims and inner workings of such organizations. Many persons are interrogated at length, texts are studied, and relating investigations are initiated on a regional, national and international level.

Compilations of subversive organizations for the purpose of prosecution are of continuing interest to the Central and Regional offices of USIMS. They are also of great interest to other agencies involved in the national security.

In the final analysis it is the hard concrete evidence uncovered which places an organization in the proscribed category, and it is the duty of the Investigator to uncover such evidence.

DEPARTURE CONTROL

Investigators are charged with the enforcement of Departure Control during times of national emergency and crises.

In the performance of such an important function it is the duty of the investigators to control or prevent the departure, legal or illegal, of those individuals whose departure from the United States might prove inimical to the best interest of the United States. Many times this is done at the behest of other federal agencies lacking the authority to enforce departure control.

FRAUDS

During the course of investigation it is not uncommon for the Investigator to uncover evidence that an individual under investigation entered the United States by fraudulent means.

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Subversives, Foreign Intelligence Agents, Assassins, Anarchists, etc., of a foreign nation and now in disrepute as a result of a political upheaval in their countries have entered the United States. To escape detection by United States authorities they enter presenting fraudulent or fraudulently obtained foreign passports, including United States passports, visas, and United States birth certificates. These individuals are apprehended at great personal risk to the Investigator. Such individuals are then prosecuted in United States courts under the various sections of law relating to the crime involved.

It is also significant to note that any investigation conducted by other sections of the Investigations Branch, whether it be criminal or visa fraud, is immediately transferred to the Subversive Section, Special Investigations, the moment a subversive allegation appears. It is then the duty and the responsibility of the Investigator to resolve the subversive aspects of such matters, as well as the criminal, visa fraud, and all other immigration violations.

REPORT WRITING

Subversive investigations, because of their complexity, demand the utmost skill when the Investigator incorporates his findings in report form. Such reports are prepared so as to accomplish their purpose in a thorough, efficient and professional manner. Due to the voluminous material developed, subversive reports are of necessity always lengthy, involved, and may well include multiple Subjects who are officers or members of subversive organizations. The review of such reports can swiftly glean the contents and identify proven facts, together with other information developed by the investigation. Reports are prepared so as to achieve the objective and serve the intended purpose whether it be prosecution, deportability, or a matter affecting the security of the United States. Such reports are furnished to other interested governmental agencies.

Two basic essentials required for composing such reports necessitates an excellent command of the English language and a high degree of legal knowledge which is acquired only through years of experience. A full understanding and thorough knowledge of the Rules of Evidence, both administrative and criminal, is mandatory for the Investigator to accomplish his mission when operating in the field and recording facts in report form.

11-3

CITIZENSHIP AND REVOCATION

In seeking grounds on which to base revocation action, the investigator must be aware of those naturalization requirements embodied in the law at the time naturalization was conferred. The Investigator must know the substantive and procedural provisions in effect at the time naturalization was procured. Of equal importance is the effect of past and current court decisions with which the Investigator must be thoroughly familiar. After having acquired such knowledge it is only then that the Investigator is capable of readily visualizing the scope of investigation.

These matters are lengthy and must be vigorously undertaken to insure expeditious completion. This is especially true where a statute of limitation is involved. When United States citizenship is acquired by judicial proceedings the revocation investigation based on subversive grounds is conducted for the purpose of obtaining admissible evidence of the quality essential to such a judicial proceeding. It must be borne in mind that a successful revocation action does not in itself complete an investigation. The ensuing issue of deportability must then be resolved.

The Investigator must insure that the evidence required for a subversive revocation matter is admissible, unequivocal, convincing and leaves no issue in doubt.

INFORMANTS

The Investigator, through years of experience, has acquired a high degree of proficiency and skill which is most necessary for the development and control of the following types of informants:

> Former or present members of a proscribed or questionable organization, foreign or domestic, who are willing to appear as government witnesses to testify as to their knowledge of an individual's membership therein, or as to the nature, aims and purpose of the organization, or as to the identification, publication, distribution and authenticity of the literature of such organization.
>
> Former or present members of either a proscribed or questionable organization who do not wish their identity disclosed, or are unwilling or unqualified to appear as witnesses, but who are in possession of information relative to the organization or on specific individuals, and have indicated a willingness to cooperate with this Service.

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Persons who, although they have not been members of subversive organizations, are in possession of information relating to such organizations or members thereof, and are willing to cooperate with this Service regardless of whether they are willing or qualified to appear as witnesses.

Individuals who have knowledge of operations involving smuggling of aliens, document frauds, racketeers, movements of professional criminals, or other matters within the jurisdiction of this Service, and who are willing to cooperate with this Service on a continuing basis.

APPLICANTS FOR U. S. CITIZENSHIP AND OTHER BENEFITS UNDER THE IMMIGRATION AND NATIONALITY LAWS

All applications for United States citizenship or benefits under the Immigration and Nationality laws are referred to the Subversive Section whenever a subversive allegation is present. Upon completion of investigation the Investigator presents a factual report to the appropriate operating unit. The operating unit involved will take into consideration the Report of Investigation and determine whether or not the applicant would make a desirable United States citizen.

The acquisition of United States citizenship is an extremely important matter. It is of utmost importance for the Investigator to screen out and identify subversives and other undesirables who may constitute a threat to the general welfare and security of the United States, prior to their acquisition of United States citizenship.

ENFORCEMENT

The Investigator is responsible for the enforcement of the Immigration and Nationality laws and also for the presentation of criminal prosecution in connection with such enforcement.

The duties of the Investigator are considered to be in the hazardous category. He is empowered to make arrests without warrant, the only Federal Agency so authorized. He must be fully cognizant of all laws and instructions relating to authority of arrest with or without warrant. He must be in sound physical condition in order to carry out

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his hazardous duties. He is authorized to carry firearms. Often situations arise where the Investigator must make an arrest by himself.

The investigator is eligible for and receives compensation premium pay for uncontrollable overtime. He is also within the 20/50 retirement bracket.

The Investigator must qualify on the firearms range periodically. Some investigators of the Subversive Section have been selected to assist the Secret Service in the protection of the President of the United States, and must therefore qualify with firearms on a special combat course.

CONCLUSION

Inasmuch as the highest field grade in the Immigration and Naturalization Service is GS-11, and in view of the foregoing, it is clearly evident that the Subversive Investigator, Special Investigations, performs duties and functions that should cause a reclassification from that of General Investigator, Field Grade GS-11 to that of Criminal Investigator or Special Agent, Field Grade, GS-12 and 13.

It is inconceivable that such highly qualified investigative personnel be denied their true classification. The evidence, as has been set out, strongly supports this request for higher classification.

Therefore a prompt audit of positions of the investigative personnel, Subversive Section, Special Investigations, New York Office is immediately warranted and justified.

A-244

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10007

ADDRESS:
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U.S. CIVIL SERVICE COMMISSION
FEDERAL BUILDING, 26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

IN REPLY PLEASE REFER TO

NOV 3 1965

YOUR REFERENCE

Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

Dear Mr. Loughran:

Enclosed are copies of our decision on the classification appeals of the following General Investigators, GS-1810-11 in the New York District Office of the Immigration and Naturalization Service:

Sidney Baron	John F. Martin
Frank G. Costas	Peter P. Messineo
Alexander Plastenstein	John C. McKenzie
James M. Gennetto	Theodore Nordt
Martin R. Greenfield	Arthur Opolion
Norman H. Henry	Sal M. Salerno
Knute H. Logernes	Robert Wiesenhorn

We have retained the present classification in each appeal because the appellants either have no GS-12 casework or such assignments occupy less than a majority of their working time.

Sincerely yours,

I. P. Pace
Regional Director

Enc.

GOV'T EXHIBIT B

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A-245

PMR:SP:rp

NOV 8 1956

Mr. John F. Martin
27 Cloverdale Avenue
Staten Island, New York 10308

Dear Mr. Martin:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Although your appeal was submitted as one of a group we have considered it individually and this letter is responsive to your particular situation.

Our decision is based on a review of the material submitted by you and your agency, consideration of the information secured during a desk audit of your position, and a comparison of your duties and responsibilities against the Civil Service Commission's standards and the supplement to the standards of the Immigration and Naturalization Service for the General Investigating Series, GS-1810.

Essentially, the grade of an investigator's position depends on the level of difficulty of the cases assigned and their scope. The grade is not determined by the ability of an investigator to carry out more difficult assignments, or his length of service. We mention these points because they have been raised by some investigators during our discussions with them. We are commenting also on the complaint of some of the appellants with whom you are associated that the agency attempts to assign the more difficult and complex cases considered to be of GS-12 calibre (which it can be determined by supervisors) to GS-12 investigators and that when a case assigned to a GS-11 investigator appears to involve fraud or subversive activity or gives indication of developing into a GS-12 calibre case, it is taken away and assigned to a GS-12 investigator.

Your agency has the right, which goes with the responsibility for managing its resources in mission accomplishment, to assign work as it deems best. In this connection management's continuing objective should be to have each position contain as much of its grade controlling responsibilities as possible considering the work situation. GS-12 investigators, to the fullest extent, should be utilized on GS-12 work.

The Civil Service Commission cannot dictate to your agency how it should organize its work or how it should make assignments to individual investigators. The Commission in its appellate capacity must limit its jurisdiction to determining the classification which results from the agency's decision on work organization and assignment. We determine the classification by assigning a grade to the principal duties and responsibilities; i.e., those that take up at least a majority of the employee's working time (at least 51 percent).

Our task in ruling on your appeal is to ascertain 1) the highest grade level of work assigned to you, and 2) the percentage of your working time which it occupies. This means that if you are performing GS-12 work your position will not be classified at that grade level unless it occupies a majority of your time. There are exceptions to this rule in certain situations such as you have pointed out in other district offices where it is not feasible to set up specialized positions at GS-12 to which available GS-12 work can be assigned. The exceptions to not negate the general rule stated above.

The criteria for classifying investigative assignments at the GS-12 level are described in the standards as follows: they are of the most complex and delicate nature; the issues involved have a grave impact on the national security, involve important political, social or similar implications, or persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case may be nationwide or particularly complex, or extremely important from the standpoint of potential effect on service-wide operations.

The fact that there may be congressional or central office interest in a particular case does not automatically place it in the GS-12 category. Neither is it placed in that category if the investigation includes interviews with members of a foreign mission or requires securing auxiliary information from an American consul overseas or a foreign consulate. The determining factor is still the character and complexity of the investigation and its broad implications.

Using your workload assignments for the last year we compared them against the above criteria. The majority of your cases during that period do not meet the GS-12 characteristics. Rather, they are more typical of the GS-11 or GS-9 grade levels. We refer particularly to marriage frauds involving one or a few individuals with no widespread conspiracy or third party ramifications, applications for naturalization or other benefits where neighborhood and other checks are made to verify references and other information where the applicants are neither key members of subversive organizations with influence and control over subversive activities in various key areas of the country, nor principals of well-organized underworld activities. Most orphan adoption cases are of the GS-9 level although some may have

characteristics of higher grades; and locating aliens whose departure has not been verified is usually a GS-9 level assignment unless the investigation presents some of the higher grade characteristics described above.

Among the cases which you have cited in support of your appeal we consider the following to have some GS-12 characteristics: Antonio Romero-Soto, Adelphi Academy, Guinean students under the African-American Institute Exchange Visitor Program. In our judgment these cases take up a minor portion of your investigative work time (less than 20 percent).

We have considered also your other special assignments - instructor in the investigator training course; acting as one of a group of 'control officers' to investigate the escape of an alien from custody; liaison with the State Employment Service on labor preference cases; and acting as supervisor over GS-9 investigators, or as shift supervisor in his absence. These assignments, although indicative of the confidence of your superiors in your work, and strengthening your position, do not justify a GS-12 grade.

We must conclude then that your duties and responsibilities do not meet the criteria in the standards for a GS-12 investigator and to be our decision that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

L. H. Baer
Regional Director

c.c. Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

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A-248

NOV 8 1969

Mr. Arthur Opolion
137-44 Francis Lewis Boulevard
Laurelton, New York 11413

Dear Mr. Opolion:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Although your appeal was submitted as one of a group we have considered it individually and this letter is responsive to your particular situation.

Our decision is based on a review of the material submitted by you and your agency, consideration of the information secured during a joint audit of your position, and a comparison of your duties and responsibilities against the Civil Service Commission's standards and the supplement to the standards of the Immigration and Naturalization Service for the General Investigating Series, GS-1810.

Essentially, the grade of an investigator's position depends on the level of difficulty of the cases assigned and their scope. The grade is not determined by the ability of an investigator to carry out more difficult assignments, or his length of service. We mention these points because they have been raised by some investigators during our discussions with them. We are commenting also on the complaint of some of the appellants with whom you are associated that the agency attempts to assign the more difficult and complex cases considered to be of GS-12 calibre (where it can be determined by supervisors) to GS-12 investigators and that when a case assigned to a GS-11 investigator appears to involve fraud or subversive activity or given indication of developing into a GS-12 calibre case, it is taken away and assigned to a GS-12 investigator.

Your agency has the right, which goes with the responsibility for managing its resources in mission accomplishment, to assign work as it deems best. In this connection management's continuing objective should be to have each position contain as much of its grade controlling responsibilities as possible considering the work situation. GS-12 investigators, to the fullest extent, should be utilized on GS-12 work.

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The Civil Service Commission cannot dictate to your agency how it should organize its work or how it should make assignments to individual investigators. The Commission in its appellate capacity must limit its jurisdiction to determining the classification which results from the agency's decision on work organization and assignment. We determine the classification by assigning a grade to the principal duties and responsibilities; i.e., those that take up at least a majority of the employee's working time (at least 51 percent).

Our task in ruling on your appeal is to ascertain 1) the highest grade level of work assigned to you, and 2) the percentage of your working time which it occupies. This means that if you are performing GS-12 work your position will not be classified at that grade level unless it occupies a majority of your time. There are exceptions to this rule in certain situations such as you have pointed out in other district offices where it is not feasible to set up specialized positions at GS-12 to which available GS-12 work can be assigned. The exceptions do not negate the general rule stated above.

The criteria for classifying investigative assignments at the GS-12 level are described in the standards as follows: they are of the most complex and delicate nature; the issues involved have a grave impact on the national security; involve important political, social or similar implications; or persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case may be nationwide or particularly complex, or extremely important from the standpoint of potential effect on service-wide operations.

The fact that there may be congressional or central office interest in a particular case does not automatically place it in the GS-12 category. Neither is it placed in that category if the investigation includes interviews with members of a foreign mission or requires securing auxiliary information from an American consul overseas or a foreign consulate. The determining factor is still the character and complexity of the investigation and its broad implications.

Among the cases which you have cited in support of your appeal we consider the following to have some GS-12 characteristics: BOAC - QUANTAS Union Complaint, Metz, School Investigations, Yifrach. These, however, take up a minor portion of your investigative work time (no more than 15 percent). We have considered also your assignment as supervisor over GS-9 investigators, and your designation as a 'control officer' when an alien in transit without visa absconds. Neither activity is enough to justify a GS-12 grade.

We must conclude then that your duties and responsibilities do not meet the criteria in the standards for a GS-12 investigator and it is our decision that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

L. H. Baer
Regional Director

c.c. Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

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Address:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING 220 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

A-251

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

IN REPLY PLEASE REFER TO

YOUR REFERENCE

11/8/68

Mr. Frank G. Costas
44-74 21st Street
Long Island City, New York 11101

Dear Mr. Costas:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Although your appeal was submitted as one of a group we have considered it individually and this letter is responsive to your particular situation.

Our decision is based on a review of the material submitted by you and your agency, consideration of the information secured during a local audit of your position, and a comparison of your duties and responsibilities against the Civil Service Commission's standards and the supplement to the standards of the Immigration and Naturalization Service for the General Investigating Series, GS-1810.

Essentially, the grade of an investigator's position depends on the level of difficulty of the cases assigned and their scope. The grade is not determined by the ability of an investigator to carry out more difficult assignments, or his length of service. We mention these points because they have been raised by some investigators during our discussions with them. We are commenting also on the complaint of some of the appellants with whom you are associated that the agency attempts to assign the more difficult and complex cases considered to be of GS-12 calibre (where it can be determined by supervisors) to GS-12 investigators and that when a case assigned to a GS-11 investigator appears to involve fraud or subversive activity or gives indication of developing into a GS-12 calibre case, it is taken away and assigned to a GS-12 investigator.

Your agency has the right, which goes with the responsibility for managing its resources in mission accomplishment, to assign work as it deems best. In this connection management's continuing objective should be to have each position contain as much of its grade controlling responsibilities as possible considering the work situation. GS-12 investigators, to the fullest extent, should be utilized on GS-12 work.

The Civil Service Commission cannot dictate to your agency how it should organize its work or how it should make assignments to individual investigators. The Commission in its appellate capacity must limit its jurisdiction to determining the classification which results from the agency's decision on work organization and assignment. We determine the classification by assigning a grade to the principal duties and responsibilities; i.e., those that take up at least a majority of the employee's work time (at least 51 percent).

Our task in ruling on your appeal is to ascertain 1) the highest grade level of work assigned to you, and 2) the percentage of your working time which it occupies. This means that if you are performing GS-12 work your position will not be classified at that grade level unless it occupies a majority of your time. There are exceptions to this rule in certain situations such as you have pointed out in other district offices where it is not feasible to set up specialized positions at GS-12 to which available GS-12 work can be assigned. The exceptions do not negate the general rule stated above.

The criteria for classifying investigative assignments at the GS-12 level are described in the standards as follows: they are of the most complex and delicate nature; the issues involved have a grave impact on the national security; involve important political, social or similar implications; or persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case may be nationwide or particularly complex, or extremely important from the standpoint of potential effect on service-wide operations.

The fact that there may be congressional or central office interest in a particular case does not automatically place it in the GS-12 category. Neither is it placed in that category if the investigation includes interviews with members of a foreign mission or requires securing auxiliary information from an American consul overseas or a foreign consulate. The determining factor is still the character and complexity of the investigation and its broad implications.

We note that you have had several details outside your regular work assignment. As you have pointed out these details have resulted in a reduction in the number of cases assigned you in the general investigation area, and consequently a reduction in potential GS-12 cases. We must evaluate only cases actually assigned you, rather than your potential or capability for investigating cases which may be of GS-12 calibre. As aide to the unit chief, you supervised GS-9 investigators. This responsibility is considered to be at the GS-11 level. Neither would acting as supervisor for short periods of time justify a GS-12 for your position.

The cases you have presented as indicative of those assigned while you were on detail (housing domestics project, private bills and fraud section) do not, in the main, have the characteristics of the GS-12 level in the standards. Some of your cases do have GS-12 characteristics. For example, those involving Mahmet Kokdemir, Windsor Interiors, Lew Shun, Orquidea Franco, Anthony Doria, Caribbean Restaurant, Leamington Hotel Visa Fraud, Schools. Most of these, however, go back several years. This decision covers your current workload, that is, for the last year. On this basis we can credit you only with a minimum amount of time (at most 20 percent) on GS-12 casework.

Therefore, it is our decision that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

L. H. Boor
Regional Director

c.c. Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

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A-254

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

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NEW YORK, N.Y. 10007

IN REPLY PLEASE REFER TO

YOUR REFERENCE

11/8/68

Mr. Martin R. Greenfield
94-06 34th Avenue
Jackson Heights, New York 11372

Dear Mr. Greenfield:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Although your appeal was submitted as one of a group we have considered it individually and this letter is responsive to your particular situation.

Our decision is based on a review of the material submitted by you and your agency, consideration of the information secured during a work audit of your position, and a comparison of your duties and responsibilities against the Civil Service Commission's standards and the supplement to the standards of the Immigration and Naturalization Service for the General Investigating Series, GS-1810.

Essentially, the grade of an investigator's position depends on the level of difficulty of the cases assigned and their scope. The grade is not determined by the ability of an investigator to carry out more difficult assignments, or his length of service. We mention these points because they have been raised by some investigators during our discussions with them. We are commenting also on the complaint of some of the appellants with whom you are associated that the agency attempts to assign the more difficult and complex cases considered to be of GS-12 calibre (where it can be determined by supervisors) to GS-12 investigators and that when a case assigned to a GS-11 investigator appears to involve fraud or subversive activity or gives indication of developing into a GS-12 calibre case, it is taken away and assigned to a GS-12 investigator.

Your agency has the right, which goes with the responsibility for managing its resources in mission accomplishment, to assign work as it deems best. In this connection management's continuing objective should be to have each position contain as much of its grade controlling responsibilities as possible considering the work situation. GS-12 investigators, to the fullest extent, should be utilized on GS-12 work.

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The Civil Service Commission cannot dictate to your agency how it should organize its work or how it should make assignments to individual investigators. The Commission in its appellate capacity must limit its jurisdiction to determining the classification which results from the agency's decision on work organization and assignment. We determine the classification by assigning a grade to the principal duties and responsibilities, i.e., those that take up at least a majority of the employee's working time (at least 51 percent).

Our task in ruling on your appeal is to ascertain 1) the highest grade level of work assigned to you, and 2) the percentage of your working time which it occupies. This means that if you are performing GS-12 work your position will not be classified at that grade level unless it occupies a majority of your time. There are exceptions to this rule in certain situations such as you have pointed out in other district offices where it is not feasible to set up specialized positions at GS-12 to which available GS-12 work can be assigned. The exceptions do not negate the general rule stated above.

The criteria for classifying investigative assignments at the GS-12 level are described in the standards as follows: they are of the most complex and delicate nature; the issues involved have a grave impact on the national security; involve important political, social or similar implications; or persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case may be nationwide or particularly complex, or extremely important from the standpoint of potential effect on service-wide operations.

The fact that there may be congressional or central office interest in a particular case does not automatically place it in the GS-12 category. Neither is it placed in that category if the investigation includes interviews with members of a foreign mission or requires securing auxiliary information from an American consul overseas or a foreign consulate. The determining factor is still the character and complexity of the investigation and its broad implications.

Using your workload assignments for the last year we compared them against the above criteria. The majority of your cases during that period do not meet the GS-12 characteristics. Rather, they are more typical of the GS-11 or GS-9 grade levels. We refer particularly to marriage frauds involving one or a few individuals with no widespread conspiracy or third party ramifications; applications for naturalization or other benefits where neighborhood and other checks are made to verify references and other information where the applicants are neither key members of subversive organizations with influence and control over subversive activities in various key areas of the country, nor principals of well-organized underworld activities. Most orphan adoption cases are of the GS-9 level although some may have characteristics of higher grades; and locating aliens whose departure has not been verified is usually a GS-9 level assignment unless the investigati

presents some of the higher grade charactoristics described above.

Among the cases which you have cited in support of your appeal we consider the following to have some GS-12 characteristics: Sheen, Council on Student Travel, Kang, Triantafyllou, Abdal-Ati, Japanese-American Institute, Baby and Geriatric Care Training School, Vitous, Midtown School of Business, Career Academy, Harriet, Rastas. In our judgment these cases did not constitute a majority of your working time. Our estimate is closer to 25 percent. We have considered also your other special assignments - serving as a "control officer" and supervisor over GS-9 investigators. These assignments do not affect materially the time which we estimate you have spent on grade 12 work. Your one month assignment as acting chief of the unit with full responsibility for its operation adds to your GS-12 level work time. It is still considerably short of meeting the "majority rule" requirement.

We must conclude then that your duties and responsibilities do not meet the criteria in the standards for a GS-12 investigator and it is our decision that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

L. H. Baer
Regional Director

c.c. Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

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Frank G. Costas
44-74 21st Street
Long Island City, N.Y. 11101

October 28, 1968

Re: Your PME:SF:rp
June 18, 1968

Mr. John E. Sauerhoff, Jr.
Chief, Evaluation Branch
United States Civil Service Commission
News Building, 220 East 42nd Street
New York, New York 10017

Dear Mr. Sauerhoff:

I am submitting this addendum to the case summary I had forwarded to you on July 31, 1968 in support of my classification appeal (United States Immigration & Naturalization Service General Investigations GS-11 to GS-12). The submission of the following additional and clarifying information has been made imperative because of information which had come to my attention during an interview with Mr. Samuel Friedman of your office on this date.

Mr. Friedman read an excerpt from a report submitted to your agency by our Service in which Martin Peters, Supervisory Investigator of General Investigations, had reported that I had not conducted any investigation of the GS-12 level for the past year. I questioned the basis for Mr. Peters' opinion since investigations within the General Investigations area of responsibility conducted and completed by me during the past year have been minimal because of the following details or assignments:

10/16/67 - 3/8/68 (Aide & Acting Supervisory Investigator)
3/14/68 - 5/24/68 (Fraud Section)
6/25/68 - 7/12/68 (Household Domestics Project)
8/27/68 - 10/25/68 (Private Bill Unit)

Of equal import are the number and type of "General Investigations" cases completed during the period October 16, 1967 - October 25, 1968 and that 38 days of annual and sick leave were taken during this period. Thirty-nine such investigations were completed with twenty-one of them completed by telephone during my tenure as Aide because available information did not warrant assignment for field investigation. The remaining investigations included four Waiver of Excludability type, eight naturalization (including two mental, possible deportation type), an auxiliary investigation for another office and one miscellaneous case. In view of Mr. Peters' known disagreement with recent successful classification appeals, his incomplete explanation and unfair opinion of my unique situation is understandable.

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It is because of the foregoing that most of the investigations of the General Investigations type presented in my case summary were completed over one year ago. This was also during the period when supervisors were not identifying or taking GS-12 level cases away from GS-11 Investigators as they are reportedly required to do at the present time. It would also appear that they were not even cognizant that GS-12 level cases existed as is borne out by the many successful classification appeals and the recent concessions by Service Management that a significant amount of such work does exist in the General Investigations area.

Your further consideration of the information outlined above and an awareness of the weight to be given to the information provided by Mr. Peters will be appreciated.

Respectfully submitted,

Frank G. Costas

FRANK G. COSTAS
Investigator,
United States Immigration & Naturalization Service

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UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WASHINGTON, D.C. 20536

PLEASE ADDRESS REPLY TO

AND REFER TO THIS FILE NO.

CO 612.1-C

Director, New York Region
U. S. Civil Service Commission
News Building
220 East 42nd Street
New York, New York 10017

Dear Sir:

Reference is made to your letter of June 18, 1968 and our related letter of July 24, 1968 concerning the classification appeals of 16 General Investigators in the General Section of our New York District Investigations Branch.

Two of the 16 General Investigators, namely Mr. Alan Murray and Mr. Leon Fischer, have terminated their appeals. Mr. Murray has been promoted to a position in our Mexico City District. Mr. Fischer has advised that he is withdrawing his appeal. With regard to the remaining 14 appellants, we have completed our review of these positions substantially as outlined in our letter of July 24, 1968. A Classification Specialist from this office, working in conjunction with a Classification Specialist from our Northeast Regional Office visited the New York District Office during the week of August 5 through 9, 1968, for the purpose of conducting site audits of the appellants' positions. Inasmuch as the appellants indicated that they did not wish to discuss the casework that they considered representative of their assignments with these representatives, an alternate method was employed. Several hundred case control cards relating to all cases closed during the last three months were obtained, and the relating files were requested. All files were not available, however, it is felt that the 240 case files reviewed were representative sampling for that period. Additionally, the Classification Specialists discussed each Investigator's caseload individually with the immediate supervisors, covering, in general terms, the last 12 months workloads.

As reflected in the attached evaluation, no GS-12 level casework whatever was encountered in the review of these 240 case files. Realizing the limited scope of the sample taken, careful note was made of the observations and estimates of the immediate supervisors. They are listed separately in the attached evaluation. The immediate supervisors interviewed, and the Assistant District Director of the Branch confirmed that it has been the policy for over a year in the General Section to assign

cases which appear to contain GS-12 elements to other sections, where GS-12 Investigators are available to handle them. This practice is followed either when recognition of the higher level work is made initially, or when it begins to develop, and is intended to promote a more effective and efficient distribution of the workload.

Inasmuch as the above described study indicates the existence of some grade GS-12 work in the General Section at New York, we are now studying the possibility and practicality of establishing one or more grade GS-12 positions there to which grade GS-12 work which arises can be funnelled. However, in accordance with our findings as outlined above and in the attached evaluation, we find that the 14 positions under appeal are all properly classified as General Investigator, GS-1810-11.

Sincerely,

E. A. Loughran

E. A. Loughran
Associate Commissioner, Management

Enclosures

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EVALUATION STATEMENT, 14 GENERAL INVESTIGATORS
GS-1810-11, GENERAL SECTION, NEW YORK
DISTRICT INVESTIGATIONS BRANCH

BACKGROUND

The positions being evaluated are located in the General Section of the New York District Investigations Branch. The official position description for these positions #603A7 is attached. The names of the General Investigators whose positions were evaluated are as follows: Sidney Baron, Frank Costas, Alexander Fiasterstein, James Gennette, Martin Greenfield, Norman Henry, Knute Legernes, John McKenzie, John Martin, Peter Marsimino, Theodore Mordt, Arthur Opolion, Sol Saletra, and Robert Widenhorn.

STANDARD APPLIED

Criteria from the Supplement to the Position Classification Standards for the General Investigating Series, GS-1810-0 for positions in the Immigration and Naturalization Service, Department of Justice, were employed in evaluating the casework, duties, and responsibilities of the appellants.

INFORMATION AND MATERIAL CONSIDERED

Due to the unavailability of the appellants for site audits, 240 case files representing cases closed during the preceding three month period were reviewed, and discussions were held with the appellants' supervisors with regard to the case files reviewed and the level of their work in general over the past year.

FINDINGS

✓ Sidney Baron

Casework was found to consist principally of routine neighborhood character investigations for purposes of determining good moral character in connection with pending applications for naturalization, and uninvolved investigations of non-immigrant aliens who have violated their status in the United States. Two cases involved marriage frauds, but these did not exceed the GS-11 level as described on page 5 (item 3) of the standards. Mr. Baron's supervisors stated that he has handled, during the past year, one or two isolated cases which they felt reached the grade 12 level, but that the vast majority of his work did not exceed the GS-11 level, in their opinion.

DECISION: Properly classified as General Investigator, GS-1810-11.

✓ Frank Costas

Cases reviewed were simple neighborhood character investigations relating to naturalization applications, and bona fides of marriages as requested by consular offices by form letter. Immediate supervisor advised appellant had had no GS-12 level cases to his knowledge since March when he became the appellants supervisor. The second line supervisor could recall no cases with GS-12 characteristics assigned to Mr. Costas in the past year.

DECISION: Properly classified as General Investigator, GS-1810-11.

Alexander Flasterstein

During the period under review, Mr. Flasterstein was temporarily detailed to the frauds section. Most of the closed cases reviewed were run-of-the-mill neighborhood investigations to establish the bona fides of marriages relevant to applications for benefits before the service, or the issuance of immigrant visas. These investigations did not exceed the grade GS-11 level as indicated on page five of the classification standards "(3) Alleged fraudulent marriages entered into for the purpose of securing entry into the United States." In fact, most of the investigations here involved no allegations regarding fraudulence, but rather were merely initiated due to the uncertain validity of claims made in applications before this Service or visa offices. Additionally, there were a few character and background investigations of petitioners for alien orphans of a routine nature.

DECISION: Properly classified as General Investigator, GS-1810-11.

James Gennette

Mr. Gennette has the immediate responsibility for all Transit without Visa (TRWOV) Investigations. The individual cases involve accounting for aliens in the TRWOV category who do not depart from the United States within the maximum time period specified by law or regulation. The level of the investigative case work unquestionably represents grade GS-9 and GS-11 level work. The appellant apparently feels that his exclusive assignment to this activity coupled with his responsibility for co-ordinating the efforts of the grade GS-9 Investigators who are occasionally assigned this type work, merits classification to grade GS-12. We do not find that this modest additional responsibility is sufficient to classify the position higher than grade GS-11.

DECISION: Properly classified as General Investigator, GS-1810-11.

Martin Greenfield

A wide assortment of case types was encountered in Mr. Greenfield's work, which is probably some indication of his immediate supervisors' confidence in his capabilities. The predominant type of investigation found, however, in the files reviewed was the investigation of the bona fides of marriages by visa applicants, initiated in response to Form FS-506 from various American Consuls. Though none of Mr. Greenfield's work reviewed approached the GS-12 level of complexity, his immediate and second line supervisors agreed that 8 to 10 percent of his work during the past year had developed to the point that it appeared to have grade GS-12 elements. However, as indicated on page 8 of the standards: "Occasional performance of such duties on a one-time or infrequent basis does not merit classification in this grade level. "(GS-12)."

DECISION: Properly classified as General Investigator, GS-1810-11.

Norman Henry

The case files examined relating to Mr. Henry's closed cases involved mostly naturalization neighborhood character investigations, without any unusual characteristics, and ordinary investigations concerning the legal status of non-immigrants in the United States. None of the cases reviewed exceeded the GS-11 level. Mr. Henry's immediate supervisor stated that he had had one

GS-12 level case during the past year, that he knew of. Mr. Peters, the second-line grade supervisor disagreed about the level represented by that particular case, and said he knew of no grade GS-12 work that had been done by Mr. Henry during that period.

Knute Legernes

Almost all of Mr. Legernes' casework which was reviewed involved routine character investigations, either in connection with an application for Naturalization or some other type application pending before the Service. None exceed in complexity the criteria as set out for GS-9 and GS-11 Investigators in the standards. Mr. Legernes' immediate supervisor knew of one case in the past year that he felt reached the GS-12 level. His second line supervisor knew of no such case at all.

DECISION: Properly classified as General Investigator, GS-1810-11.

John Martin

The cases reviewed were principally the uncomplicated bona fides of marriage type investigations described above, and investigations involving non-immigrants who were out of status. None of these cases exceeded the GS-11 level of complexity. Mr. Martin's immediate supervisor could remember "one or two cases in the last three years" which seemed at the grade GS-12 level. His second line supervisor could recall no such cases at all.

DECISION: Properly classified as General Investigator, GS-1810-11.

Peter Massimino

The cases reviewed pertaining to Mr. Massimino's work were predominantly neighborhood investigations of the types previously described, with no uncommon or high level ramifications. Mr. Massimino's supervisors reported that they knew of no GS-12 level work performed by him during the past year.

DECISION: Properly classified as General Investigator, GS-1810-11

John McKenzie

Cases were found to be principally character investigations of the type described above for Messrs. Baron, Costas, and Legernes. Some cases also involved checking the validity of statements made regarding petitioners and beneficiaries on Immigration visa petitions, as requested by the Travel Control Branch of the District. Both of Mr. McKenzie's supervisors agreed that they knew of no GS-12 cases which he had handled in the past year.

DECISION: Properly classified as General Investigator, GS-1810-11.

Theodore Mordt

Half of the 40 case files reviewed representing Mr. Mordt's work were ordinary neighborhood character investigations to verify good moral character in connection with applications for naturalization, or similar applications for benefits under

the Immigration and Nationality Act, as described in several of the other evaluations presented above. There were also two cases involving homestudy investigations of prospective parents of alien orphan children, to establish general suitability, within the standards set by the law, of the prospective home for the orphan child. These cases do not in any way exceed the GS-11 criteria. Mr. Mordt's supervisors advised they knew of no GS-12 work which he had been performing during the past year.

DECISION: Properly classified as General Investigator, GS-1810-11.

Arthur Opolion

Mr. Opolion's casework was found to consist primarily of investigations of non-immigrant aliens in violation of their status in the United States; character and background investigations of petitioners for alien orphans; and miscellaneous routine investigations to ascertain validity of statements made on various applications for benefits under the Immigration and Nationality laws. None of the cases involved novel issues or unusually complex and delicate problems, nor did they meet in any other way the criteria for grade GS-12. Mr. Opolion's supervisors stated that he had had a few borderline grade GS-12 cases, and perhaps an isolated case that fully met the grade GS-12 level, during the past six months.

DECISION: Properly classified as General Investigator, GS-1810-11.

Sol H. Saletra

The majority of Mr. Saletra's casework reviewed concerned naturalization character investigations, and investigations of the status of non-immigrant aliens. Additionally there were several cases involving deportable permanent resident aliens, with fairly complex factual situations, and complications involving immoral sexual behavior and possible insanity. Though the latter cases did not appear from the investigative reports and material contained in the file to exceed the GS-11 level, they were above the average of the other appellants' case work. Mr. Saletra's immediate and second line supervisors agree that he performs some grade GS-12 level work. Four cases previously handled by Mr. Saletra were discussed in general terms. The classification specialists agreed that the verbal synopses presented by Mr. Saletra's supervisors seemed to meet the criteria for grade GS-12. His supervisors agreed that approximately 20% of his casework is of the grade GS-12 level; however, this is by no means sufficient to justify reclassification to grade GS-12.

DECISION: Properly classified as General Investigator, GS-1810-11.

Robert Widenhorn

Character investigations without significant complicating factors, related to naturalization, suspension of deportation, and other applications before the Service, constituted the bulk of the cases reviewed representing Mr. Widenhorn's work. His supervisors both indicated that he had had no grade GS-12 level cases during the past year.

DECISION: Properly classified as General Investigator, GS-1810-11.

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SUMMARY

On the basis of the material reviewed, representing case files closed by the appellant General Investigators, and discussions with their immediate and second line supervisors, we find that the positions of all the appellants are all properly classified at the present time. This decision is in concurrence with the views of the Assistant District Director for Investigations, Mr. Wroblewski, who stated in definite terms that there was very little grade GS-12 casework being performed in the General Section, and that there had been very little performed during the past year. Mr. Solomon Marks, the acting District Director for the New York District at the time of the termination of the above-described audits and discussions, was presented with the substance of the findings, and did not disagree with the conclusion that no single appellant had sufficient grade GS-12 level casework to warrant reclassification to that grade.

After careful consideration and review of all the relevant material gathered, it is our decision that all 14 positions under appeal are properly classified as General Investigator, GS-1810-11.

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ABDAL-ATI, Hammudah A13 182 686 March, 1968
ABDAL-ATI, Taysir A17 497 699

Investigation based on a request from the Officer In Charge USINS, Albany, N.Y. to conduct an investigation at the Rockefeller Foundation in order to gather all the facts surrounding the foundations allegation that the subjects expressed bad faith by accepting a Foundation Fellowship. The subjects were currently attempting to adjust their status to Permanent Resident Aliens.

The Fellowship Officer and Fellowship Associate of the Rockefeller Foundation were interviewed and stated that the Foundation is deeply involved in the international education movement and the development of backward countries. They therefore issue thousands of scholarships to foreign students to come to the United States to study with the specific condition that these students return to their native countries and help in the economic, political and social development of their respective countries. The Foundation was not particularly interested in the two subject aliens but was rather attempting to bring to the attention of the Immigration Service the possible consequences of other students remaining in this country, if the subjects were allowed to adjust. This would greatly jeopardize the continuing good work of the Foundation and would have a profound worldwide effect.

This case definitely falls within the general duties of the GS-12 Investigator due to the national and international importance of the Rockefeller Foundation and their role in the development of backward nations, which is consistant with the committments of the United States. The results of the adjudication of the application for adjustment of status also has the potential to effect Servicewide operations and this adjudication will be based on the investigative report.

(10 Hours)

AUTO ACCIDENT VEHICLE #0309 NYC73/94. 181 July, 1968
AUTO ACCIDENT VEHICLE #0520 NYC ~~XXXXX~~ 73/94.182 July, 1968

Both listed personnel investigations are of a serious nature and potentially could influence or change Servicewide policy regarding the use of automobiles. Additionally adverse publicity and public opinion regarding this Service could result if the level of performance surrounding the investigation were not of a high calibre. In addition to determining the responsibility of the accident each case of this nature has its own individual aspect of sensitivity. In the above cited NYC 73/94.181 for instance, the driver of the private vehicle involved was 8 months pregnant at the time of the accident.

(Correct)

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Arthur Opolion
137-44 Francis Lewis Blvd.
Laurelton, N.Y. 11413

August 7, 1968

RE: your PME:SF:rp
June 18, 1968

Mr. John E. Sauerhoff, Jr.,
Chief, Evaluation Branch
United States Civil Service Commission,
News Building, 220 East 42nd Street
New York, New York, 10017.

Dear Mr. Sauerhoff:

In conformity with your request dated June 18, 1968,(Reference PME:SF:rp) I am forwarding the necessary documentation for adjudication of the classification appeal submitted by me, and fifteen co-appellants. I would like to make some preliminary observations which appear to be germane to this appeal.

I have been employed in the position of General Investigator with the United States Immigration and Naturalization Service at New York since November 19, 1962. I was last promoted to GS-11 in the month of July 1966. The nature of investigative work is such that many cases in the inception appear to be routine in character, and only astute and perceptive investigations can develop these cases to their fullest potential. In effect, any investigation is dependent, not so much on the material at hand, but rather, on how it is developed. The level of competence at which an investigator functions is the significant criteria for the purpose of ascertaining the correct grade level.

During the period prior to July 1966 while yet a grade GS-9 investigator, I developed cases which had all the indicia of GS-12 level cases, and would be so considered by current standards. I will illustrate later on some of these cases which appeared routine at the time of assignment. It is my contention that the supervisor on many occasions does not know whether a case being assigned is grade 9- 11 - or 12 level work, since it is the investigator through his work- who will finally determine the correct level of any given investigative matter. Only where the level of a case is determined to be of grade 12 level complexity can the supervisor make an absolutely correct assignment.

A. IRON CURTAIN NATIONALS

For over two years, I was in charge of the Iron Curtain Program with over 600 cases. They all involved Aliens considered subversive who had received State Department Waivers for admission to the United States. Many of these cases involved aliens of great prominance and international repute. Considerable tact and discretion was necessary to locate them or to verify their departure from the U.S.

Constant contacts with the State Department, Federal Bureau of Investigation, United Nations officals, and foreign dignitaries was necessary to assure the effectiveness of the program.

B. CONTROL OFFICER- ESCAPE OF ALIENS FROM CUSTODY

I have attached memorandum NYC 242.13-P dated December 26, 1966, by the District Director, N.Y., In which I was designated as one of six investigators currently in the N.Y. District to act as the Control Officer in those cases where an alien escapes, or attempts to escape from Service custody. The Control Officer is in charge of the personnel aspect of the investigation and the reapprehension efforts. All of the investigators assigned to the reapprehension effort must make timely reports to the Control Officer.

C. TRANSIT WITHOUT VISA * ABSCONDEES

I have attached Memorandum NYC 238.5-P dated January 4, 1967, by the District Director, N.Y., In which I was designated as one of two non-supervisory investigators at N.Y. to be contacted at any time of the day or night upon the absconding of a transit without visa alien. Upon being contacted, I am charged with conducting an immediate investigation to locate the alien. These cases are all reportable to a regional level of review. They must be handled with requisite skill inasmuch as the background of these aliens is unknown. They are potentially in the classes inadmissible to the United States for reasons such as physical ailments, mental defects, criminal, immoral, narcotic, or previous deports.

D. SUPERVISORY ASSIGNMENTS

I have acted on numerous occasions in a Supervisory capacity at the request of the supervisor or in his absence. During such periods I have been authorized to assign cases and review the work of GS-9 and GS-11 investigators. Lately, the review of cases has been limited to the work of the GS-9 investigators.

E. Persons of such notoriety or Status who could give rise to heavy pressures from organized groups or the press:

1. SHAO HWA WANG (A15 573 854)
2. YUNG TING TSAI (A15 977 814)

The two aliens above mentioned were crewmen who deserted their ship. They were found to be employed in the household of Dr. H. H. KUNG, the former Prime Minister of China who served in that capacity for 12 years. He was the Prime Minister of China during World War II. The home of Dr. KUNG was visited and his wife was interviewed. Mrs. HUANG, daughter of Dr. KUNG was also contacted with regard to this matter. Mrs. HUANG is the wife of the Deputy Air Force Chief of Nationalist China attached to the Chinese Mission Delegation to the United Nations. This investigative matter had to be handled with extreme tact, delicacy, and diplomacy due to the unusual sensitivity of the situation. (6/15/67---7/19/67---10 hours)

3. Elie Akiva YIFRACH (A13 209 108)
SUBJECT applied for permanent residence in the United States. He is an ordained Rabbi of high repute as a scholar. It was alleged that SUBJECT was an international swindler. There was State Department, and Federal Bureau of Investigation interest in this matter. Investigation had to be conducted with utmost discretion, and involved interviews with leading Rabbinical Theologians in New York. Investigation proved favorable to SUBJECT. (1/17/67---5/26/67--- 28 hours)

4. Union Complaint concerning Nonimmigrant Employees of BOAC and QANTAS AIRWAYS (NYC 10/37-16)
Investigation conducted at the request of Central Office relating to possible violations of status of employees of BOAC and QANTAS Airways during the strike by the International Association of Machinists. These Two airlines conduct operations international in scope, and employ numerous Treaty Traders in Supervisory positions in the United States. The Union was accusing these two airlines of using these Supervisory personnel in nonsupervisory positions during the strike, in effect, as strikebreakers. Sworn statements were taken from Union Representatives, and all employees engaged in servicing QANTAS aircraft during the strike. The head of QANTAS at New York also submitted a sworn statement concerning the alleged violations. The airlines were admonished not to use supervisory personnel in nonsupervisory positions in violation of status in the United States. This investigation was highly sensitive, and was nationwide in scope. (2/12/68---2/26/68---48 hours)

5. Terrence METZ (A8 863 429)
Character investigation-SUBJECT was an applicant for citizenship-SUBJECT is the head of the Jamaican-American Foundation, Inc. and the Jamaican-American Employment Service. He was alleged to use these institutions as devices to circumvent the immigration laws. He was allegedly seeking employment situations for Jamaican nationals. The bona Fides of these organizations and their practices was investigated. The Dept of Welfare of the City of N.Y. was also involved inasmuch as the SUBJECT occupies a supervisory position with the City of New York. (1/10/67---5/4/67---28hours.)

6. NYC 71/27--C
This was a personnel investigation relating to an investigator with this Service who was involved in an Automobile accident and testified falsely under oath concerning the circumstances of the accident. He also attempted to influence a fellow investigator to submit false information under oath concerning the circumstances of the accident. The field investigation included the securing of sworn statements from all parties who had knowledge of this matter. The investigator was ultimately charged with perjury and subornation of perjury. (9/19/67---12/6/67--60 hours.)

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7. Dr. Anthony DORIA (C 7 489 418)
SUBJECT is a naturalized citizen of the United States. He is an author and the Head of a College in Vermont. Central Office requested through our Northeast Regional office that all possible information as to Dr. DORIA's background and experience be ascertained(Reason not given) Interviews were conducted with prominent educators at various Colleges in Suffolk County, N.Y.(6/19/67---6/21/67--12 hours)

8. In a citizenship matter of a Hungarian female(Name and file# unknown) It was alleged that she was having an adulterous relationship with Mr. Jack Dreyfuss Jr.,The head of the DREYFUSS Fund. The Hungarian female was employed by Mr. Jack Dreyfuss Jr. in his home. She was married and Mr. Jack Dreyfuss Jr. was also married at the time, but separated from his wife. Investigation included interview with Mr. Jack Dreyfuss Jr. at his office. This was a highly sensitive matter involving an individual of conspicuous prominence.(12 hours)

F. FRAUD INVESTIGATIONS

I am submitting two cases which are considerably older than the rest, and were completed prior to my promotion to GS-11. They are submitted as grade 12 level work in order to demonstrate what so-called routine cases can and do develop into, and their complexity. The supervisor has no way of knowing the ultimate potential of a case. The level of competence of the investigator is the determinant factor whether a case will be significantly developed or not.

1. Nicoletta ARGYROS (A12 042 020)
Applicant for citizenship based on 3 year statute. Investigation developed that SUBJECT fraudulently obtained benefits under Section 245 of the I & N Act, on the basis of a sham marriage to a citizen of the United States who received $500.00 for his part in this fraud. This matter was presented to the U.S. Attorney for prosecution, but he declined in favor of administrative action. Employers of SUBJECT attempted to conspire to have spouse of SUBJECT change his testimony and to arrange for SUBJECT and her spouse to consummate the marriage. Employers of SUBJECT enjoyed great prominence, the wife, Mrs. ROLFE is a member of one of the wealthiest Greek shipowning families, and Mr. Sidney E. ROLFE is a former President of the State Education Department in Albany, N.Y. He is the SUBJECT of Federal Bureau of Investigation reports stemming from his youthful indiscretions. Prosecution of the ROLFE's was attempted, but they generated enough influence to have the matter turned down. The permanent residence of SUBJECT was rescinded. She was recently deported to her native Greece. ([redacted]-160 hours)

2. Washington Business Institute (NYC 214 f.2-74)
Investigation was based on anonymous letter alleging school condones the non-attendance of students who are gainfully employed.

Field investigation disclosed that school keeps incomplete attendance records, and that attendance is not enforced. Furthermore, most students attend during the evening enabling them to be gainfully employed during the day. Sworn statements from students reflected that they were coached on filling out applications for extensions, and were told to submit false information in order to receive the requested extensions. The school Director, Dr. Theodore Hulbert was heavily implicated in this matter. Subsequently a sworn statement from him elicited information that the school was assisting students to remain in that status although legally not entitled thereto. This fraudulent behavior was developed and twenty-six files of current students who appeared to be gainfully employed were gathered together for the purpose of a full-scale comprehensive fraud investigation looking towards revocation of the school approval for foreign students. The case with 26 riding files was transferred to Frauds and Prosecutions Section for further development, and is still pending at this time. (---180 hours)

F. (a) WAIVER OF EXCLUDABILITY

These investigations involve applicants for waivers of excludability who have all been found to be excludable by the United States Consul abroad because of the perpetration of a fraud in attempting to secure Visas. The decision of the officer in charge to grant or deny the waiver is ultimately based on the report of investigation and the issuance of a Visa is contingent on the action on the waiver. These investigations are specially controlled and their progress is reported to the Region on a monthly basis. The purpose of the waiver is to allow the applicant to enter the United States to join a parent, spouse, or child who is a permanent resident of the United States. Operating instructions require that the extent of the relative's knowledge of the fraud and the degree of hardship to the relative if the waiver is denied, must be fully explored. The investigation delves into the character and loyalty of the principal relative.

1. Esteban Antonio LOPEZ-RIVERA (A14 832 501)
Investigation disclosed that fraudulent documents were secured through Jose Fidel PIMENTEL (A6 272 098) a permanent resident of the United States. File of PIMENTEL was forwarded to Frauds and Prosecutions for further development of his activities in the fraudulent document field. (11/25/66---2/15/67--26 hours.)

2. Elio SABABRIA-TRAVIESO (A11 566 442)
Investigation developed that SUBJECT used fraudulent documents to escape from Cuba during the time of the Batista Regime where he was wanted as an enemy of the government. Principal relative indicated that he would have been executed if apprehended, and that his crime was purely political. (4/27/67----7/26/67---25 hours.)

3. Oswald Alfred BARNES (A14 885 094)
SUBJECT paid for fraudulent documents in West Indies. Principal relative is United States citizen spouse, and three United States citizen children. (12/21/67---4/11/68---32 hours.)

4. GAM MUN MOY (A17 541 914)
SUBJECT is an aged woman living in Hongkong. She submitted fraudulent information concerning herself at a time when the principal relative(her son) was illegally in the United States. He subsequently confessed to the Service and was permitted to adjust his status in the United States. He is the only support of SUBJECT. Considerable compassionate factors in this matter. (10/18/67---3/21/68---24 hours.)

F. (b) FRAUDULENT MARRIAGES-BONA FIDES OF MARRIAGE

These investigations all stem from factors in the case reflecting a strong possibility of the marriage being non bona-fide. Many of these investigations are started at the request of the American Consul abroad where the SUBJECT is applying for a Visa to join the USC spouse.As the result of these investigations often other violation involving other Federal agencies are uncovered, and forwarded for appropriate action.

1. Carmen OSBORNE (A13 838 070)
Investigation indicated that marriage was Bona-fide.(12/9/66---12/29/66--10 hours.)

2. Winslow Eulie HARRISON (A12 022 668)
Investigation disclosed violations of Internal Revenue Regulations. Internal Revenue Service was notified of violations by USC spouse for appropriate action. (12/16/66---1/26/67--- 8 hours.)

3. Antonio INDELICATO (A14 841 718)
(11/29/66---1/26/67--- 12 hours.)

4. Edwin R. RICHARDS (A14 315 952)
Investigation indicated marriage non bona-fide.
(12/29/66---4/27/67---16 hours.)

5. Lukie Ashman GAYLE (A14 861 148)
Department of State interest.(2/3/67---3/7/67---10 hours.)

6. Maria Giovanna MARTELL (A14 848 688)
(2/16/67---6/27/67---14 hours.)

7. Theodore Alphonso BROOKS (A14 863 810)
2/23/67---5/4/67---24hours)

8. Maria Anna SIMONE (A14 808 815)
(6/15/67---9/25/67---13 hours.)

9. Marlene Alexandrina LEWIS (A14 862 245)
Department of State interest. Violations by USC spouse of Internal Revenue Regulations. Internal Revenue notified of violations.
(12/14/67---3/1/68---22hours.)

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10. Mariano BONACCORSO (A13 921 923)
Marriage non bona-fide. Marriage annuled. (10/12/67---11/28/67--12 hours.)

11. Joaquin PICANO (A14 892 178)
(9/19/67---11/29/67---11hours)

F. (c) BONA FIDES- SLEEP-IN MAIDS

These investigations require great tact and diplomacy in order to avoid any incidents with the employers who often are individuals of prominence living in well-to-do areas. These employers do not hesitate to register complaints to the service, the press, or to their Congressman.

1. Rosa BALISTRERI (A14 860 021)
Petition for sleep-in maid non bona-fide.
7/25/67---8/17/67---10 hours.)

2. Nicole RICHAUDEAU (A17 528 533)
(11/16/67---2/20/68---14 hours.)

3. Jana HRABOVSKA (A14 894 322)
9/6/67---1/25/68---12 hours.)

4. Rosa BRACHA (A17 791 877)
Petition for sleep-in maid non bona-fide. SUBJECT departed from the United States. (2/28/68---7/12/68---35 hours.)

G. ORPHAN ADOPTION- HOME STUDY- CHARACTER AND LOYALTY INVESTIGATION

Investigations are conducted of petitioners in orphan adoption cases. The agencies from which many of these children are adopted are national in scope and international in reputation. These investigations encompass an exhaustive home study of the prospective parents and their ability to provide the proper home environment and upbringing for the orphan. A complete character and loyalty check is a necessary phase of the investigation. These matters have State Department local welfare, judicial and often Congressional interest. They are handled expeditiously and the report of investigation is used as the basis for approval or disapproval of the petition, which is the necessary basis for the issuance of an immigrant Visa. These cases are all investigated by this Service locally where the orphan will reside and overseas where the orphan awaits the outcome of the investigation. The petitioners are often of significant prominence, and enjoy great social prestige in their communities. The confidential aspects of these cases plus the social status of the petitioners put these cases into a sensitive area. There are international ramifications of good-will involved in such large scale programs as currently exist with respect to the adoption of Korean orphans.

1. Steven Paul Kerekach (A14 867 553)
(3/13/67---4/18/67---20hours.)

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2. Matthew Ethelbert TONEY (A14 855 818)
(1/20/67---3/27/67---18 hours.)

3. HYUN MI JUN (A14 881 381)
(5/24/67---7/24/67---28 hours.)

4. Jennifer Ann LAMB (A14 867 943)
(1/21/67---5/30/67---22 Hours.)

5. PARK HYUN SOOK (A14 886 302)
7/25/67---8/25/67---18 Hours.)

6. Catherine YOO (A14 899 435)
7. Clyde YOO (A14 899 485)
The two above orphans were petitioned for by one family.
(7/27/67---8/25/67---24 hours.)

8. HYUNG NAN LEE (A14 887 448)
(7/25/67---8/21/67---12 hours.)

9. OK JA KIM (A14 890 125)
(7/12/67---8/25/67---14 Hours.)

10. YUNG OK KIM (A14 890 124)
(9/14/67---11/17/67---16 hours)

11. Marlies Christine BRAADE (A17 550 290)
(11/27/67---4/8/68---16 hours.)

12. Alice Jayne Louise JOHNSON (A17 532 273)
(11/17/67---2/21/68---17 hours.)

13. Edeltraud SCHMID (A17 573 831)
(5/13/68---6/4/68---16 hours.)

14. Amanda DUSHNICK (A14 940 638)
(4/1/68---5/8/68---18 hours.)

15. Maria CORREIA (A17 541 988)
16. Augusto CORREIA (A17 541 989)
The two above orphans were petitioned for by one family, an Aunt and Uncle of the orphans.
(4/18/68---5/24/68---26 hours.)

17. Jose CORREIA (A17 546 061)
Petitioners are an Aunt and Uncle of the beneficiary orphan.
(4/18/68---5/29/68---14 hours.)

18. Mina Marie HOVE (A17 587 956)
(4/11/68---5/29/68---16 hours.)

19. AMIKO RHEE HIMSLEY (A17 547 420)
(11/13/67---3/1/68---18 Hours.)

20. Patricia KIM (A17 119 008)
(4/23/68---5/29/68---12 hours.)

21. John Lee CHRISTENSEN (A17 541 917)
22. Kimberly Ann CHRISTENSEN (A17 541 918)
The two above orphans were petitioned for by one family.
(11/3/67---2/20/68---26 hours.)

23. SUNG YUNG KIM (A17 568 240)
(2/1/68---4/27/68---16 hours.)

24. SOON EUN JUNG (A17 537 528)
(12/7/67---1/24/68---14 hours.)

H. SIXTH PREFERENCE INVESTIGATIONS

The Secretary of Labor certifies certain occupational skills as being in short supply in the United States. Aliens who can present evidence that they have these skills necessary to our economy are given preference in the issuance of immigrant Visas. It is in the national interest that these skilled craftsmen be admitted to the United States. The Investigation centers about the need of the petitioning firm. It must be ascertained whether the firm has the necessary facilities for the requested beneficiary. The finances of the organization are delved into, and what efforts have been made locally to secure the necessary help. The qualifications of the beneficiary are explored, and the salary to be received is verified, and whether it is comparable to similar work in the industry. The question of whether the alien will replace any local labor is explored, and the possibility of the petition being an accomodation for the alien is investigated. Any suspicion of fraud is carefully examined, and many other aspects of the particular case in question. In order to ascertain the bona-fides of the petition and the qualifications of the beneficiary, a thorough knowledge of the industry investigated is necessary.

1. Concetta D'AMICO (A14 822 253)
Petition for Sample-maker- Non Bona-Fide.
(2/8/67---6/20/67---6 hours)

2. Antonio VARIO (A14 827 029)
(5/23/67---7/28/67---6 hours.) Petition for Fabricator-Assembler Metal products

3. Orlando CALOIA (A14 788 309)
Hand Tailor- (2/14/67---7/24/67---7 hours.)

4. Andrea COMO (A14 821 355)
Orthpaedic Shoe-maker- non bona-fide (10/12/67---2/19/68---8 hours.)

5. Casimiro GIURICI (A11 057 936)
Cook-Pastry-maker-non bona-fide- (1/2/68---3/21/68---10 hours.)

6. Grazia RINDONE (A14 817 468)
(9/29/67---11/27/67---7 hours.)

7. Elena GENDUSA (A14 836 964)
(11/27/67---2/19/68---6 hours.)

8. Bruno PIRAINA (A14 879 246)
(5/2/67---7/28/67---6 hours.)

I. Petitions by schools for permission to accept foreign students for study:

Investigations are conducted of schools petitioning for approval to serve as institutions of learning for foreign nationals. These schools often are national in scope and international in reputation. the training of foreign students is of paramount importance to our Government, and serves to promote good-will the world over. Foreign students are able to return to their native lands to assist their native economy in significant development areas. The school is investigated to establish physical facilities, curriculum, standards of education, qualifications of instructors, grading and attendance procedures, financial stability of the school, renewal of all necessary licenses, evidence that the school qualifies its graduates for employment in the school study areas, and for further scholastic advancement in other institutions of learning. A report of the results of the investigation is prepared, and based thereon, the petition will be adjudicated. Abuses by schools previously accredited require vigorous investigation to uncover the potential wide-scale use of the school as a vehicle for obtaining admission to the United States under fraudulent pretenses.

1. KAY LAURE SCHOOL OF BEAUTY (NYC 214 f.2-927)
(5/26/67---8/11/67---8 hours)

2. TORAH HIGH SCHOOL OF LONG BEACH (NYC 214 f.2-948)
(12/18/67---6/6/68---12 hours.)

J. Miscellaneous Character investigations

1. Hans KRUPMANN (A12 037 008) (10/14/65--4/3/67)
2. Alice KRUPMANN (A14 343 750) (6/ 3/66--4/3/67)
SUBJECT #1 was an applicant for citizenship, and claimed a valid marriage to SUBJECT #2, a permanent resident of the United States. Investigation disclosed that SUBJECT #1 procured his permanent residence by marriage to a former spouse, a marriage which was never consummated. He was not eligible to adjust on the basis of that marriage. The marriage of SUBJECT #1 to SUBJECT #2 appeared to be bigamous in that SUBJECT #2 was married to yet another spouse in Canada, a marriage which had not been terminated. Investigative efforts included investigation in Canada. Congressional and Senatorial involvement complicated entire investigation. It was recommended that permanent residence of SUBJECT 1 and 2 be rescinded. Matter is still pending at this time. (Total Time 80 hours.)

3. Spyros MANARAS (A11 047 239)
Investigation disclosed adulterous relationship during 5 year period preceeding application for citizenship. F.B.I. interest.

57 SUBJECT was involved in the harboring of Greek deserting crewmen at New York.
(2/17/67---8/25/67---12 hours.)

4. Bernhard HEUBEL (A8 164 276)
5. Marianna HEUBEL (A8 428 248)
SUBJECT's were applicants for citizenship. They expressed sympathies with the Nazi cause during World War II. They were the SUBJECT's of F.B.I. interest. Thorough character and loyalty investigation was conducted into their background and fitness for citizenship.
(7/20/67---8/25/67---10 hours.)

6. Anton SCHWEISS (A8 734 976)
Petitioner for naturalization- Active in Nazi party organizations. SUBJECT of F.B.I. interest. Comprehensive character and loyalty investigation conducted to determine fitness for citizenship.
(2/21/67---6/30/67---7 hours.)

7. Henry HOELKER (A5 731 737)
Petitioner for naturalization. Active in Nazi causes. Member of the Bund. Interned during the war as an enemy alien. Thorough character and loyalty investigation to determine fitness for citizenship.
(811/67---10/17/67---12 hours.)

8. Spiros SIMOS (A11 076 751)
SUBJECT is a native of Albania. Thorough character and loyalty investigation.
(8/17/67---10/17/67---10 hours.)

9.Joachim KAMBESELES (A12 349 314)
Petitioner for naturalization under three year statute on the basis of marriage to USC. Investigation disclosed not living with spouse, and not eligible for naturalization.
(7/28/67---12/19/68-- 20 hours.)

10. Kristin G. CARROLL (A17 025 831)
Applicant for adjustment of status. Investigation disclosed that SUBJECT has several children in Welfare institutions in Iceland, and that she had been adjudged a poor mother at the time her children were taken from her. She was found to be living in an adulterous relationship at the time of investigation.
(6/26/67---9/22/67---12 hours.)

K. Current caseload

I am currently assigned 95 separate investigations. The below listed are GS-12 level cases, and the hours to be expended on each case cannot be estimated at this time. I will indicate after the file # of each case listed, the assignment date.

PERSONNEL INVESTIGATION: involves interpreter with this Service engaged in outside activities involving a conflict of interest situation.

1. Orphan Petition cases:

a. UNKNOWN ORPHAN (O.I. 204.3(E)
assigned 6/26/68

b. Maria B. OLIVER (A17 119 060)
assigned 7/3/68

c. SUNG SOOK LIM (A17 610 978)
assigned 7/8/68

d. Marlies STELMACH (A17 616 434)
assigned 7/19/68

e. JA SUN HEW (A17 546 074)
assigned 7/30/68

f. Treasa Sunali MOHER (A17 106 733)
assigned 8/2/68

2. Character investigations

a. Vitangelo GADALETA (A7 978 842)
assigned 6/19/68

b. Madeleine YOST (A11 991 659)
assigned 5/9/68

c. Gunter Paul HAUBOLD (A12 350 097)
assigned 5/5/68

d. Panagicta BOURNIAS (A12 477 082)
assigned 5/1/68

e. Carlo RAPPA (A12 046 413)
assigned 5/1/68

f. Floret Maud PHILLIPS (A12 100 729)
assigned 9/6/67

g. Simo MATESIC (A10 259 784)
assigned 2/15/68

3. Fraud Investigations

a. Fernando PINARDI (A17 549 090)
assigned 12/26/67

b. Mohammad RAHAVANDI (A13 286 567)
assigned 7/12/68

c. Gladys Vartan MARTIN (A17 560 925)
assigned 8/2/68

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4. Sixth Preference cases

a. Stefano CAMPIONE (A17 597 346)
automotive mechanic - assigned 7/19/68

5. Waiver of Excludability cases

a. Mary MOLANO-BUSTALENTE (A17 690 554)
assigned 7/9/68

6. School revocation case

a. ELS LANGUAGE CENTER (WAS 214-F-435)
assigned 7/10/68

7. Treaty Trader Case

a. Antonio K. DIMAYUGA (A13 750 398)
assigned 5/1/68

8. Mental Cases

a. LEONG QUE HUNG (A14 762 001)
assigned 2/26/67

b. Luis ARDANA (A14 [illegible] 769)
assigned 5/21/67

c. Sylvia LIE (A17 128 001)
assigned 8/16/67

d. YI SHIN YU (A14 329 401)
assigned 1/22/68

L. CONCLUSION

The preponderance of my investigative work during the past two years has consisted of grade 12 level work. These cases have complexity, an impact on social welfare, national economy, and national security. The cases have political implications, and involve individuals of prominence.

Character investigations have the potential for developing into deportation proceedings, criminal prosecutions, and revocation of naturalization proceedings. They must be conducted by investigator operating at the Grade 12 level of competency.

The hours indicated spent after each case appearing in this Appeal is an approximation. However, it is unquestionably a preponderance of my time computed on an annual hourly basis. I believe that I spend between 70% and 75% of my investigative time on an annual basis on Grade 12 level work.

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I have omitted all cases which appear to be borderline situations between a grade 11 and grade 12 level of complexity. I feel that the case cited reflect a grade 12 level of competence and performance with which my duties are executed.

In view of the foregoing, It is my firm view that reclassification to General Investigator GS-12 is warranted at this time.

Respectfully submitted,

Arthur Epalion-Investigator
United States Immigration & Natz. Service

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Certified Appeal

John F. Martin
27 Cloverdale Avenue
Staten Island, N. Y. 10308

August 7, 1968

Re: your PHS:LF:rp
June 18, 1968

Mr. John E. Sauerhoff, Jr.,
Chief, Evaluation Branch
U. S. Civil Service Commission
220 East 42nd Street
New York, New York 10017

Dear Sir:

In addition to the information you request in your letter of June 18, 1968, I think it important to give you a summary of my background with the Immigration and Naturalization Service. I am including assignments not shown in your letter. The reason for including these assignments is that they involve work supervisory in nature and must be considered within the GS-12 level. Other assignments not classified as case work, usually assigned by the Chief or General Investigations through my immediate supervisor, were of an unusual nature and also must be considered because of the impact of Service policy or the delicacy of the particular case assigned. I will attach official memoranda directing the assignment or the result of an assignment. I regret that I did not keep records of all assignments outside of my regular case load nor do I keep record of my completed cases. You may be sure that what I will present was the result of an arduous research job. I am also sure that you will give consideration to the work that I have performed, that is, practically every type of investigation regardless of grade level since I was assigned as a GS-7 investigator on April 10, 1957, a period of eleven years.

I entered the Immigration Service on November 28, 1946 as a clerk. I spent five years in the United States Army from March 1941 to February 1946, was honorably separated with the rank of Chief Warrant Officer and returned to the Immigration Service during that year. I resumed my duties as a clerk and was subsequently promoted on several occasions, usually in a supervisory position. On April 10, 1957 my position title was changed from supervisory clerk GS-301-7 to Investigator, General GS-1810-7. On March 12, 1959 I was promoted to GS-1810-9 and on March 19, 1961 to GS-1810-11. I have remained

69 in the GS-11 grade for a period of more than seven years.

The following is a summary of the time I spent in supervisory duties as an aide to my immediate supervisor, a GS-12 Supervisory Investigator. These duties, among others, consisted of assigning cases to investigators in the squad and review of reports relating to investigations completed submitted by these investigators. In the absence of the GS-12 Supervisor, it was incumbent upon me as his aide to act in his place. I acted as his aide during the period September 1965 to January 1966 - approximately four months. In addition to this, I spent an additional 19 days as his aide or as an acting Supervisory Investigator during 1966. From January 1967 to May 26, 1967 - approximately four months, I was again assigned as his aide. During this year I spent an additional 15 days in this capacity. During the current year, I filled in for the Supervisory Investigator for a period of four days and it is anticipated that I will be acting supervisory Investigator for a two week period during August when my immediate supervisor goes on vacation.

An assignment I handled exclusively outside my usual case work is liason with the New York State Employment Service for the entire General Investigation Section. The information requested is of a sensitive nature and for that reason the New York State Employment Service requested that it be handled through one person. Information is supplied to that agency from our Service which could lead to possible fraud and prosecution of person(s) receiving benefits unlawfully.

Another assignment outside the usual case work is as "Duty Security Officer". This assignment is on a rotation basis and is mainly assigned to GS-12 Supervisory Investigators. These inspections are made after 5 p.m. to make certain there are no security violations.

On December 28, 1966, I was assigned as a Control Officer, along with several other officers, to assume control and launch an immediate investigation in the event an alien escapes from custody. Attached is a copy of the duties involved. In reading the material you can readily see the responsibility that is to be assumed by the Control Officer. The writer contends that this assignment falls within a GS-12 or higher grade investigator's responsibility. The assignment was made directly from the District Director's office and is an indication assigned to this duty are capable of performing investigative assignments of a complex nature.

Attached also is a schedule assigning the writer as an instructor in one of the phases of investigative work. These assignments are usually given to GS-12 or higher grade investigators.

Attached is a memorandum dated October 19, 1966 from the Chief General Investigations Section designating the writer as an acting Assistant Chief. This is presented to show that

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the writer was assigned to perform the duties of a GS-12 supervisory Investigator.

Attached is a memorandum dated February 28, 1968 from to Chief, General Investigations relating to Nonimmigrant Overstay Investigations. This program started with 10 investigators and at the time of its completion, about four months later, the writer was supervising approximately 30 investigators. The program was brought to such a successful conclusion that the District Director wrote a memo of commendation to all people involved. This is another instance of the writer being assigned to a supervisory job well within the GS-12 level.

Attached is a memorandum from the writer dated September 19, 1966 to the acting Assistant Director for Investigations relative to Service policy regarding the reporting of students who appear to be illegally in the United States by Service approved schools the aliens were attending. The memo speaks for itself. This is another instance where it is believed by the writer that the assignment was within the GS-12 level of work.

Rather than continue describing assignments that I handled I wish to state that I have been called upon to supervise other projects which involved the supervision of other investigations of GS-11 and lower grade investigators.

As stated previously in this letter I regret that I do not retain records of completed investigations. [illegible] course of the investigation, after which the notes are destroyed. I feel that after I complete an investigation, I have no need to know how the alien's case is adjudicated, and generally, I have no desire to know. The more current investigations and those of unusual interest I have been able to ascertain the relating file numbers. Many of the investigations that met the GS-12 level of the GS-12 level, that I have completed, I do not have the file nor the relating file numbers. Making it impossible to list them in this letter. I carry a case load usually 25 cases so you can readily understand the volume of cases that are closed.

The investigative cases cited herein are those that in my belief fall within the GS-12 level because of the delicate or sensitive nature of each case; their impact on social [illegible] national economy; political implications and national security. These types of investigation frequently require the investigator to direct other investigators in the United States and other countries to conduct specific phases of the investigation. This could also involve American Consulates of the State Department in obtaining needed information. This, of course, requires investigative techniques in organizing and planning investigations and coordinating investigations at other points in the United States and abroad. The actual time spent on these investigations cannot be approximated by the writer but the opening and completion dates will be shown, if known. Some investigations can be completed in eight hours, others will

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take eighty hours. On several occasions the writer conducted investigations that were completed in less than eight hours, such investigations requiring extensive contact because of the individuals involved for example foreign diplomats, executives in large corporations, persons of prominence in both the theatrical and social world etc.

On March 14, 1968 I was detailed to the Frauds Unit, this District, and assigned approximately 30 cases. I completed this assignment during the month of June 1968 and expended about 252 hours. These investigations were conducted as a result of inquiries from American Consulates abroad and from the Department of State Washington, D. C. to ascertain if fraud was involved in the marriage of United States citizens or permanent resident aliens to aliens who were in the United States in an illegal status and were attempting to obtain immigrant visas based on said marriages. The basis for the investigations was the wide disparity in the ages of the spouses. Instruction received from the Chief, Frauds Unit and his Supervisory Investigator was to look for fraud patterns that might involve attorneys representing the beneficiaries; a "marriage fraud ring" or other factors.

Name	File No	Assigned	Completed
Joan H. Charles	A14781942	3/14/68	3/28/68
Janessa C. Johnson	A13229904	3/14/68	3/28/68
Vincent Wang	A14109540	3/14/68	3/28/68
Delville Jackman	A14790676	3/15/68	3/28/68
Rafael Alardo	A13089932	3/14/68	4/7/68
George Gordon	A14391401	3/15/68	4/8/68
Evan McGregor	A14880677	3/14/68	4/8/68
Joseph Cadet	A15213383	3/14/68	4/8/68
Cyrlene Harris	A14847749	3/14/68	4/8/68
Ana Edelmira Mejia	A17554405	3/15/68	4/11/68
Claude R. Richards	A12167349	3/14/68	4/11/68
Nicholas A. Barnes	A17540565	3/14/68	4/11/68
Herman W. Bryan	A17587880	3/29/68	6/11/68
Beatrice Ashton	A13879285	3/14/68	4/23/68
Roslyn Butler	A14839502	3/14/68	5/14/68
Jose L. Melta	A14873425	4/26/68	5/15/68
Maria Acosta	A17543584	5/1/68	6/18/68
Simeon A. Tuburcio	A14888836	5/1/68	6/18/68
Neville Telfer	A14839792	5/1/68	6/27/68
Mytha Acosta	A14809881	3/14/68	4/22/68
Hubert Hyacinthe	A14882651	3/15/68	4/26/68
Millicent Hull	A12082765	3/15/68	5/2/68
David Sydney Smith	A12091946	3/15/68	5/9/68
Rafael Osvaldo Pardilla	A14407695	3/15/68	5/19/68
Valerie Gonzalez	A14736608	3/15/68	5/19/68
Rafael Casado Feliu	A14885970	3/15/68	5/28/68
Hugh Bernard Victor	A14892418	3/15/68	5/31/68
Anitta Goodman	A13906976	3/15/68	6/6/68
Albert Duval	A17587809	3/15/68	6/6/68

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The following investigations, reportable to both our Central Office and Regional Office, were opened on December 11, 1967 and completed during April 1968. The investigations were based on a request from the Program Officer, Guinea Scholarship, African-American Institute of the United Nations. That agency advised the following named students, among others, all nationals of the Republic of Guinea, were admitted to the United States under the auspices of the African-American Institute-Exchange Visitor Program, had completed their authorized study programs and that they had a reluctance to leave the United States. The Institute asked this Service for assistance in securing their return to Guinea. During the investigation it was found that these students did indeed want to prolong their stay. This became a trickish problem because some of the students intimated they were close relatives of high government officials in the Guinean government. Each student had to be handled with tact because of political and diplomatic consideration. Advoidance of adverse publicity had to be also considered inasmuch as some of these students were still attending school or had planned to enroll at high level universities, such as Columbia University. The Program Development Officer, International Training Officer of the Agency for International Development indicated interest in these cases and informed the Service that the Government of the Republic of Guinea was desirous of having these students return to Guinea to utilize their knowledge in the development of their country. These investigations were brought to a successful conclusion.

Name	File No.
Hadiatou Bal de	A13808084
Abdourahmane Diallo	A18922804
Hassatou Diallo	A14209782
Lanfia Diakite	A18222269
Abdoul Barry	A17516125

An investigation was conducted relative to Hassan Meiber, A14879825, an illegal alien seeking to adjust his status to that of a permanent resident because of his marriage to a United States citizen. The request for the investigation came from the Applications Section, this District, to ascertain if this was a bona fide and not one that would constitute fraud. This investigation was opened on May 4, 1976 and completed on October 26, 1967. The writer found that the Subject was not residing with his wife and directed that an investigation be conducted by our Buffalo Office where the Subject's wife was residing. The intent of this interview with the Subject's wife was to ascertain whether she ever consummated the marriage and to obtain a statement from her as to when she first met the Subject and how long after did she marry him. The statement was to include her plans for the future and whether or not she intended to rejoin her husband. No evidence was adduced from this investigation and the file was returned to the Applications Section for adjudication.

(Writer's note: This type of investigation has been conducted by the writer many times during the past several years. Most of these investigations fall within the GS-12 level category because of the element of fraud and the possible involvement by "Suspect Third Parties", that is, attorneys, arrangers, etc.)

Investigation conducted relative to Sandor Legrady, A17088818, a citizen of Hungary was based on a complaint of a Catholic priest who sponsored the Subject. The sponsor stated that the Subject made such statements "only gangsters get ahead in this country and only idiots have a chance to succeed here". This Subject was admitted as a visitor and stayed longer than his authorized stay. The local office of the F.B.I. had an interest in this Subject as a possible internal security risk and have a file relating to him. Investigation was opened on November 8, 1966 and after an intensive search by the writer Subject was located. Subject was interviewed by the writer at our office after which his departure was directed by the Service. Subject departed the United States and his case closed. Investigation was completed on January 28, 1967.

(Writer's note: Because of the alleged subversive activity of the subject, the investigation had to be handled so it would not compromise any action by other agencies who would have an interest in the subject. The writer has conducted many investigations relating to persons who arrived in the United States from countries considered as "Iron Curtain Countries". One of the many examples, for instance, was the arrival of 79 Czechoslovak nationals on June 7, 1966 and allegedly departed on June 27, 1966. No record could be found that all these aliens departed. Files of those persons on whom the Service had no departure information were sent to this District from our Washington, D. C. Office to locate the missing aliens. It, of course, was not known if these people would engage in subversive activity but for internal security reasons these aliens had to be located or their departures verified. In all these there was C.I.A. and F.B.I. interest.)

Investigation relating to Manuel Jose de Lima Mendez, A13701375, a citizen of Portugal, admitted to the United States as a permanent resident on July 24, 1964 due to his marriage to a United States Citizen. Investigation was based on a complaint letter from a United States citizen that would indicate the Subject may not be a person of good moral character and a second from another source, also a United States citizen, that the Subject married a United States citizen as a means of obtaining his permanent residence and that he never lived with his wife. The complaint also indicated that the Subject borrowed money to pay this woman to enter into marriage with him. Object of the investigation was to develop evidence to show whether the Subject may be amenable to revocation of his permanent resident status. This investigation was opened on April 8, 1966 and closed on October 24, 1966. Investigation revealed that there appeared to be insufficient to indicate that this was a

fraudulent marriage. This investigation had to be handled with much tact because of the United States citizens and other persons involved. The investigation went into many facets looking for an arranger of this type marriage; possible homosexuality and other delicate matters that could effect the lives of the principals or other individuals.

Investigations relative to orphan adoptions have been conducted by the writer. The persons submitting petitions, usually, United States citizens, to bring orphan children into the United States from all parts of the world, have to undergo an exhaustive investigation by the service as to their moral character and loyalty to the United States; ability to provide for the orphan; proper home environment and upbringing of the child and the suitability of the home of the prospective parent. These cases have State Department, local welfare, judicial and often Congressional interest. The investigation is handled without delay because of the humanitarian aspect. The findings of the investigator is the basis for approval or denial of the petition. If the petition is approved visa is issued and the orphan is admitted to the United States. I will cite one of the several investigations I had in this category.

The petitioner's name in this case is John Joseph Shea, a United States citizen and a member of the United States Army. At the time of the investigation the Petitioner was in Seoul, Korea and the orphan at the Bovan Orphanage, Pusan, Korea. The petitioner's wife Kee Nam Shea, a naturalized citizen of the United States, was living at Fort Wadsworth, Staten Island, New York. Interview of petitioner's wife revealed that she and her husband had already adopted two other children. The investigation was favorably to the prospective parents. It might be noted that there was Congressional interest in this case. File A14807115 relates. There is no need to explain the grade level of this type investigation. The humanitarian feature and the social effect is enough to place it in a GS-12 level category.

The writer was directed by the Buffalo Office of this Service during March or April 1957 to interview the Consular Officer, Consular General of Spain, 610 Madison Avenue, New York, regarding one Antonio Romero-Soto, File A14108560. This Subject, a citizen of Spain, deserted the Spanish naval training vessel, "Juan Sebastian de Cano" during April 1953 at New York. At the time of the desertion he was allegedly member of the Spanish Infantry Marines. This matter became a very delicate one and had to be handled with tact and diplomacy because of the international impact. The United States has a treaty with Spain, Article XXIV of the 1902 treaty, relative to deserting military seamen and their return to the Spanish government. During the course of the investigation it was found that the Consular General of Spain's Office could not make decision in this matter and they had to refer it, because of certain circumstances, to their embassy in Madrid. The circumstances were that the Subject violated the Universal Military Training and

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and Service Act, in that, he used a Selective Service registration belonging to another person as his own and as a result was subject to prosecution in the United States Federal Court. If prosecuted and convicted, he could not be returned to the Spanish Government until completion of any sentence imposed. Also, the Subject was married to a United States citizen and had two United States citizen children. If he were returned to the Spanish Government this would have imposed a hardship on his wife and children. This type of investigative case certainly falls within the GS-12 level because of the high level diplomatic area in which it had to be handled. Complete knowledge of the United States 1903 Treaty with Spain and because of the several conferences and the correspondence the writer had with the Deputy Consular Officer at the office of the Consulate General of Spain. This investigation came to a successful conclusion after many months of continued contact with the Consulate General's Office.

Attached hereto is a memorandum dated July 17, 1957 from the District Director, New York to the Deputy Associate Commissioner, Domestic Control, Central Office. This memo speaks for itself. The investigation, relating to one Wilma Frenn, was based on a request from our Central Office because of correspondence received by that Office and other Government officials from the Subject. This investigation was extremely delicate and had to be handled with tact and diplomacy. This Subject was capable of causing adverse publicity to the Service and other Government agencies as well as the local police. There is no need to mention the area in which this type of investigation belongs.

The writer has conducted many investigations known as "Sixth Preference Investigations". The Department of Labor issues lists of skills and trades that are in short supply in the United States. Certain industries within the American Labor Market have been and are complaining about the shortage of skilled and semi-skilled craftsmen, the complaint being that the younger generation do not come into the trades and that industry is forced to find the needed skills in the foreign labor market. Many business owners have stated to the writer that if they do not obtain skilled workers it is possible that they would have to go out of business. This indeed would have an impact on the American economy. Although most of the applications to obtain foreign craftsmen are bona fide, many are not. When our Applications Section receives a petition for a "Sixth Preference Visa", and for any number of reasons it does not appear to be bona fide, an investigation is requested to be conducted at the petitioner's place of business. A determination at the petitioner's place of business must be made as to the actual need for the services of the alien(s); if he has the necessary facilities for the skilled person; whether the company is financially able to hire the alien(s); if an effort had been made to obtain the services of a person from the American labor market; to ascertain if the alien is presently performing the job he is soon petitioned for or if he is already employed and whether the petition was submitted merely as a favor to a relative, a friend, or an employee. It has been found

that many of these petitions are submitted as favorable evidence to the United States will engage in employment in a different field at a much lower wage than that shown in the petition or labor clearance. It has also been found that the type of employment that they are engaged in is not one that is considered by the Labor Department as within the short supply category. In order to conduct this type investigation, a comprehensive knowledge of the industry in question is a prerequisite. The writer has selected one case at random to cite for your information.

Rosa De Luca, a citizen of Italy A11098814. The alien was petitioned by Arthur Love Ltd. of this city. The Subject was to come to the United States as a sample maker. Investigation at the factory where the alien was to be employed as a sample maker revealed that it was sewing machine operation which would indicate to the alien would work in this capacity. The labor clearance indicated a salary of $150 a week; the salary that was to be paid illicited during an investigation was to be $150 a week which would probably include overtime. The investigation also revealed that the production manager of the shop did not know the capabilities of the alien as a sample maker. As in many instances the person who signed the petition knew nothing about the alien other than the recommendation he received from his production manager. As a result of the investigation the petition was not processed because of a letter of withdrawal by the petitioner. It was evident from the observation made during the investigation that this job could be filled from the American labor market [illegible] employment [illegible].

A very delicate type of case is that considered by the writer concerned "waiver of excludability" [illegible] actions. These investigations are requested by our offices abroad or offices within the United States. All these investigations are predicated upon some criminal act by the alien or other factor that would exclude him from being admitted into the United States. These have a hardship impact on the Subject's family, in that, while the investigation is completed to show that the alien is a person of good moral character, the alien is apart from his family. In many cases the alien's spouse is a citizen of the United States or a permanent resident alien and has one or more children in the United States. This type of case can be defined as a definite hardship situation and could cause adverse publicity as to the humanitarianism of the United States. Listed below are investigations that come within this category.

Name	File No.	Assigned	Completed
Rudi Kreitlow	A6010012	8/21/67	11/[illegible]/68
Chung Yee Tam	A14884280	8/[illegible]/68	[illegible]/68
Tat Keung Ng	A17[illegible]	9/25/67	2/[illegible]/68
Ing Ho King	A12[illegible]	9/11/67	10/[illegible]/67

My current case load is 40 separate investigations. Included in this figure are ten cases that can be characterized as Chinese fraud cases. (These cases are covered in the GS-13 position description under Section 11-1-(c), (e), (f), and possibly (g). These fraud cases were assigned on June 12, 1968 and are listed below.

Name	File No.
Chin Soon Yuen	A14817284
Kai Hem Lee	A14818038
Ong Lin Jung	A14804259
Chin Mai Gwong	A17368941
Lew Soo Jik	A10270814
Don Lym n Lee	A17861089
Lee Ham Dew	A17367487
Mai Lon Chu	C7516186
Yee Yoke Gim	A14672[illegible]3
Eng Yee Suey	A11088880

The remaining 30 cases fall within the category of cases exemplified in this letter, excepting the ten cases of people who are applying for citizenship and because of some criminal infraction of the law, adultery, imprisonment either here or abroad, former enemy aliens or a letter from a complainant that the petitioner is not a person of good moral character. In these latter cases a character investigation. Including loyalty to the United States is requested by the Citizenship Section. It is not unusual that the investigation is requested to ascertain if a visa is obtained by fraud after examination of the person applying for citizenship. Due to the volume of this type of investigation conducted by the investigators in the General Investigations Section no attempt will be made to list them. Many of these investigations are of a sensitive nature, some concerning perverts, homosexuals and other delicate matters, that must be concealed at all costs from the public or other interested parties to preserve the dignity of the person involved. A good percentage fall within the GS-12 category.

Inasmuch as it appears that hours or time spent on investigations is a factor in determining whether a person is involved in doing the investigation of the next higher grade, which in my opinion should have no bearing on an evaluation, I respectfully report that that I have used 568 hours of leave during the period 1963 - 1967.

Although no precise figures are shown, it is evident that a preponderant amount of my time is devoted to investigations within the purview of the GS-12 position description.

Respectfully,

John F. Martin

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CERTIFIED MAIL- RETURN RECEIPT REQUESTED
NO. 371578.

YOUR FILE: PHE:SF:rp.

August 6, 1968.

ALEXANDER FLASTERSTEIN
231 Echo Place
Bronx, NY 10457.

Mr. John E. Sauerhoff, Jr.
Chief, Evaluation Branch
United States Civil Service Commission
News Building
220 East42d Street
New York, N. Y. 10017.

Dear Mr. Sauerhoff, Jr.,

I am a co-appellant involved in the classification appeal of 16 investigators of the Immigration and Naturalization Service, New York City office, your file PHE:SF:rp. This letter is in reply to your June 18, 1968 letter to Mr. Martin R. Greenfield in which you co-appellants such as myself, should submit additional information to enable adjudicating of the appeal.

The following cases represent in my opinion higher grade level work than GS-1810-11 and represents GS-1810-12 work.

NYC 50143.43 CANON USA (BELL & HOWELL CO.)----involved treaty traders, and the countries of Japan and the United States and international businesses. The case involves the procuring of camera products, TV lenses, electronic calculators and other products from Japan which are sold on a nationwide basis in the United States. This is of material benefit to the nation's economy and involves international and commercial and diplomatic relations. Case involves business entities of such financial and political status as to involve delicate diplomatic considerations or give rise to heavy pressures from organized groups and the press and nations, if not handled properly. Hence---is a case of a complex and delicate nature.

NYC 12 F2-782 INTERNATIONAL DATA PROCESSING INSTITUTE -

This school has branches throughout the United States. The writer handled same re approval of school for the acceptance of foreign students, such as from the Phillipine Islands. The investigation involved international relations, the delicate nature of educational relationships between nations and international good will of the United States. The part of the investigation handled by the writer involved need to master intricate processes of the teaching of various electronic subjects ---making the case very complex; and also involved the forwarding of the case to another department of the United States Government, HEW, for approval consideration.

The United States inter-agency relationship make it all the more difficult due to need to describe the various complex electronic

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subjects in such a clear, simple manner that a layman could understand the complexities of the data processing subjects involved. The case involved important political and social implications. HEW approved the school. After the writer handled this case and while he was on detail, Investigator Sol Saletra handled another aspect of this case--the question of whether the applications of 33 students from the Phillipine Islands were bona fide or fraudulent and how the school, with its branches throughout the United States was functioning. This involved delicate political relations between the United States and the Phillipine Islands as well as possible diplomatic repercussions if improperly handled with possible improper adverse reflections on Filipinos or on the Phillipine Islands government. Also, interagency relationship with the D epartment of State was involved. All that occurred in this case was based upon my original investigation of the school.

A6 851 269 (SECRET) EREY, Mehmet Veli

Due to the secret nature of this case, I do not know if I can discuss same here. The investigation by the writer had to consider espionage, subversive and national defense aspects. If clearance is obtained, I will furnish details.

A 10 101 898 -VELLA, Phillip -involves claim of legal status based on a well-concealed fraud. SUBJECT concealed a first marriage of about 25 years ago ---to be able to enter the United States by virtue of a bigamous second marriage to an United States citizen. Investigation in Italy revealed the first marriage and indicated SUBJECT entered fraudulently. A deporta-tion hearing was held. The complexity involved was to uncover the fraud; and to ascertain whether this was the result of a cleverly conceived conspiracy, organized and controlled by a single individual in Italy and the United States.

VONESSACOS, Jacques, Jane, Nelly James ---involves similar type situation as in above VELLA A 10 101 898---where JACQUES VONESSACOS concealed first marriage; entered as husband of second wife who was an United States citizen. In these cases, citizen-ship of children were involved. Case involves claims of citizen-ship and of legal status where fraud was well concealed. Complex issues of immigration and nationality laws are involved; together with a possible presentation via report of investigation of a complex deportation case at a formal hearing; further involving mutiple issues, and interpretations or applications of laws.

For 3 months the writer did GS-13 work as a Trial Attorney. This is the grade of a Trial Attorney and Chief Trial Attorney Vincent Sciano in the N.Y.City office of the Immigration and Naturalization Service at 20 West Broadway, NY,NY 10007 will corroborate the above statement by me; and can give an evaluation of my work as Trial Attorney.

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(Flasterstein)

From Feb. 12, 1968 until March 1,1968 and then for two weeks subsequently, I was Acting Assistant Chief in the Genera l Investigations Section ---this is GS 12 work.

Thereafter, from May 6, 1968 until completion of the final case on August 5, 1968, I handled cases involving fraudulent schemes as to live-in-maids---wherein attornies, alien maids, and U.S. citizen employers were investigated as to violations of Federal laws and of immigration laws. These cases were:

A14 879 457 McRAE, Roberto
A17 531 471 LEARING, Edgar Godfrey
A 17 540 534 MEHMED, Sybil Millicent
A14 868 662 BELGRAVE, Alonzo Ulrich
A14 847 598 ORIOL, Reynold
A14 847 598 EMMITT, Ena N.
A13 860 806 MILES, McLeod Dacosta
A14 899 316 MARITNEZ, Luis
A14 864 946 RODGERS, Jim Vaniver
A13 821 978 FUKUSHIMA, Vicente F.
A17 540 553 SIMPSON, Augustus
A13 870 955 PRESTON, Consuel
A 14 834 678 WILLIAMS. Inez
A14 879 150 MAKOUKA, Michel
A 15 245 230 ALFRED, Jacques
A 17 556 676 WALTERS, Clive E.
A 17 575 969 DAVIS, Olga S.
A 14 795 008 BRATCHER, Maragaret Paton
A 13 750 016 CAINES, Phanstiel Llewelyn.
A 13 249 022 MARTINEZ-DELOS-SANTOS, Fernando Antonio.
A 14 391 235 TURNER, Goldine
A 14 891 415 BARNES, Malcolm A.
A 13 858 487 BROWN, Beryl
A 14 843 731 ZAMBRANO, Marty
A 13 908 971 McFARLANE, Aston Joseph
A 14 393 977 HARRIS, Cynthia
A 13 843596 MURRAY, Jean Lucille.
A 17 565 250 SANABRIA-CUERVO, Gabriel
A 14 864 986 RENNIE, Reuben.
A 13 928 778 GRAU, Maximo Jose.

These cases involve inter-agency relationships with the Dept. of State and American Consuls----as the investigations result in recommendations to the Dept. of State or American Consuls as whether or not fraud, or a fraudulent scheme, or conspiracy by attornies and others to violate the Federal laws of the U.S. and its immigration laws.

I have also handled orphan-adoption cases which have international humane and social aspects involving such countries as Greece and the U.S. and Italy and the U.S.; and compliance with the laws of each country, to give an orphan through adoption, religious, economic and educations opportunities that

2. (next page please)

the child otherwise would never have. The investigation conducted by me in orphan-adoption cases, enables compliance with the laws of the U.S. and of the foreign country involved; and result in inter-agency recommendations from the Immigration and Naturalization Service of the U.S. Dept. of Justice to the Dept. of State and its Consuls.

Such orphan cases include:

O.I. 204.3(e) -Unknown Orphan (Parent-PAITAKIS).
O.I. 204.3(e) -Unknown Orphan (Parent-WINNICK).
O.I. 204.3(e) -Unknown Orphan (Parent-PATRIS).
O.I. 204.3(e) -Unknown Orphan (Parent-COLOMBOS).

There have been other orphan cases, but the above cases were completed recently ----in June-July and Aug. 1968.

I have also handled many naturalization petition cases. These involve interpretation of complex immigration and naturalization laws and preparation of reports of investigation which determine citizenship or alienage and possible deportatibility of persons and are reports of investigation which , when needed, are used in the Federal Courts of the United States.

Such cases include:

A 12 298 757 - PANTILIAT, Chaim (which also involved interpretation of N.Y. State laws re unemployment insurance; possible criminal prosecution, as well as citizenship eligibility).

A 12 374 786 - McBRIDE, Zipporah Elsada.
A 15 888 787- MARATOS, Dionisions.
A 7 926 813 -CABEZAS, Carlos
A 12 389 674-ZINGARAPOLI, Antonio
A 12 328 991- O'DONNELL, Daniel Joseph
A 10 375 541- MALLUK, Mitchell
A 11 060 750- LUTWAK, Israel
A 12 426 459 - STEIN, Sylvia
A 12 481 516 - JOSEPH, Herbter
A 12 766 271 - CARMEL, Albert

The cases involve questions of fraud, conspiracy, character and loyalty with knowledge of the complex immigration , naturalization, and Federal criminal laws of the United States necessary.

I have also handled waiver cases---where applicants, here or abroad apply for a waiver of excludability so that they can get permission to come to the United States. These investigations are concerned with fraudulent misbehavior and relations between foreign countries and the U.S.

Such cases include:

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A 17 523 295 -RIVIECCIO, Aniello (SPORTI).
A 14 825 732 -HACKSHAW, Leon Codwell
A 13 356 718 -FRANCIS, Peraline
A 11 588 615 -LATCHMA N, Gladys M.
A 11 014 531 -HOO, Chan.

Mr.Sauerhoff, Jr., I wish to thank you for the clarity of your June 18, 1968 letter, regardless of final result in this appeal. I am writing this letter August 6, 1968 and wish to comply with what I understand is the August 10, 1968 deadline for submission of this letter of mine. Therefore, if any further details are needed from me, I will furnish them ---such as a summary of each of the above cases.

The writer has spent 90% of his working time on the above-described cases and similar cases which may have momentarily escaped me. 90% of my working time has been spend on GS-12 cases.

The writer understands from Mr. Sauerhoff, Jr.'s June 18, 1968 letter that the evaulation of the Civil Service Commission is only concerned with how a majority of my time is spent. The writer cannot refrain that it lays in the power of the Civil Service Commission to remedy grievous injustice which has resulted in hundreds of appeals from the Immigration and Naturalization Service to the Civil Service Commission.

The writer had a previous audit in which the Civil Service Commission by letter of Feb. 17, 1967, ABOUT ONE AND A HALF YEARS AGO, found the writer was doing GS-12 work but not a majority of the time. To prove this, I attach a photocopy of the above mentioned Feb. 17, 1967 letter.

The writer has also handled revocation of naturalization cases. This type of case is deemed to be the most difficult kind in the Immigration and Naturalization Service. It involves knowledge of complex immigration and naturalization laws and of Federal court decisions, including the United States Supreme Court; and painstaking investigation. Such cases handled by the writer, include:

> A 14 893 325 MANNION, Mary Philomena which involves knowledge of the U.S. Supreme Court case, AFROYIM v. RUSK (decided May 29, 1967) and application of the law of that U.S. Supreme Court case to the facts of the above cited MANNION case.

In connection with the above cited A 14 893 325 MANNION, Mary Philomena case, in this case as in all of the cases mentioned in this letter, the writer did, what all the other GS 12s do-- namely, complete the case without supervision, and submit the report of investigation for signature and review of a higher official. In point of fact, the writer is one of the top experts in the country on such matters as revocation, and in fact has written an article on the U.S.Supreme Court case, AFROYIM v. RUSK. If desired germane to

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(Flasterstein)

this appeal, the writer will immediately submit a copy of this article, as proof of expertise and therefore the lack of any supervision, besides assignamtn of the case by a supervisor, and consultation of the supefvisor with the writer.

Other revocation cases handled by the writer are:

A 12 371 003 DUDLER, Louisa
A 10 265 378 LOOSAR, Endel
(These two cases involve concealed fornication; possible revocation of naturalization; and interpretation of Board of Immigration decisions and interpreation of Immigration and Naturalization policy; and sensitivity of the public and courts to loss of citizenship).

As to the above two cases - DUDLER and LOOSAR, may I again add that they were completed without supervision ---beyond assignment; and subsequent review and signing by the supervisor----just as occurs for any GS 12 in the Immigration and Naturalization Service.

Other revocation cases handled by the writer are:

A 12 068 346 DE ALMEIDA, Joseph
A 12 098 186 ROCKMACHER, Marion formerly DE ALMEIDA, Marion

The above two cases (DE ALMEIDA and ROCKMACHER) involve adultery prior to naturalization and the fate of minor children who wish to obtain citizenship through their parents. This involves attempting to obtain clear, unequivocal and convincing evidence as to the alleged adultery; and knowledge of all the laws and Federal court decisions involved, and standards of judgment such as whether there would be any betterment of the citizenship of this country by institution of proceedings to revoke the naturalization of either SUBJECT. And there is the sensitive public issue of minor children and their alienage and citizenship.

In its Operations Handbook the Immigration and Naturalization Service acknowledges that revocation cases are the most difficult kind. I repeat that having more expertise in this field than the supervisor, I did not have any supervision as to the cases, except as occurs to any GS 12 as to assignment of cases and subsequent review of report of investigation and signing by the supervisor.

Hence, any claim that I handled my cases"under supervision" is an excuse by the Immigration and Naturalization Service to prevent the writer, and others, from obtaining a GS-12. In this connection I refer the Civil Service Commission,

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if it deems it germane, to Assistant District Director Julius Goldberg of the Citizenship Section, New York District, Immigration and Naturalization Service 20 West Broadway, N.Y.,N.Y. 10007, who I deem to be the outstanding expert in the Service as to citizenship, naturalization and revocation, and ask the Civil Service Commission to get his opinion as to my knowledge and expertise re citizenship, naturalization and revocation.

The writer believes that after mailing this letter, he will subsequently recall other cases. Suffice it to say that it is my understanding that I may supplement this letter in the future, should I see fit; or should the Civil Service Commission so request ---such as a more detailed description of the naturalization cases set forth on Page 4 of this letter (the list which commences with A 12 298 757 PLAINTIFF).

To sum up -----90% of my working time has been engaged in handling GS-12 cases. These are cases of great complexity and sensitiveness, involving the field of international education, as to school approvals and foreign students; the field of international trade as to treaty traders; revocation of naturalization case; naturalization petition cases; and certain cases involving international and humane aspects; and cases involving fraud investigations; and a case involving espionage and subversive activities. To [illegible] I have been acting Assistant Chief [illegible], and, when the Assistant District Chief, or what is now called "Supervisory Investigator" is and was a GS-12.

Also, I respectfully request the aid of the Civil Service Comission to the extent that if any other information is deemed pertinent, that I be asked to furnish it, in my endeavor to prove my case.

In view of the foregoing, it is requested that my position be reclassified to GS-12.

Very truly yours,

Alexander Flasterstein

Alexander Flasterstein
231 Echo Place
Bronx, NY 10467.

YOUR FILE:HE2:SF;rp

A-298

ADDRESS:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING 220 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

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UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR NEW YORK, N.Y. 10017

IN REPLY PLEASE REFER TO

PME:SF:mp

YOUR REFERENCE

FEB 1 1967

Mr. Alexander Flasterstein
U.S. Immigration and Naturalization
Service
20 West Broadway
New York, N.Y. 10008

Dear Mr. Flasterstein:

This is our letter of decision on the appeal submitted by you and 53 other General Investigators GS-1810-11 employed in the New York District Office of the Immigration and Naturalization Service. These appeals were contained in four letters submitted at varying times by groups of employees ranging in size from 2 to 22.

As you know we made a site audit of your position so that we could determine the nature and complexity of the cases assigned to you. We reviewed the results of this audit and the information submitted by you, your co-appellants and your agency, and evaluated it against the Supplement to the Position Classification Standards for the General Investigating Series, GS-1810-0 for the Positions in the Immigration and Naturalization Service, Department of Justice. This Supplement was approved by the Civil Service Commission as an extension of the Commission's position classification standards for the General Investigator Series, GS-1810-0.

The letters of appeal with which you are associated claim higher grades because the investigative work performed is of GS-12 caliber, and secondly because positions in other investigative agencies with similar or lesser investigative responsibilities have been assigned GS-12 grades.

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We do not compare one position against another in the same or another agency to determine the proper classification. The Classification Act of 1949 which governs the classification of positions requires that "each department shall place each position under its jurisdiction----------in its appropriate class and grade in conformance with standards published by the Commission." We must therefore determine the classification of your position by comparing it against the aforementioned standards.

In your appeal you question the propriety of titling your present job as General Investigator rather than Criminal Investigator. The type of work which you do is specifically covered in the standards for the General Investigating Series. Therefore we can find no basic for changing your title.

The standards for the General Investigating Series point out that "the basic knowledges and skills required by investigators at all levels are essentially the same. All investigators must have a good knowledge of all immigration and nationality laws, and specific knowledge of those directly relating to violations thereunder, as well as specific knowledge of the criminal statutes relating to the enforcement of the immigration and nationality laws. They must keep currently informed of precedent decisions, both judicial and administrative, and of Service policy having a bearing on the enforcement of these laws. They must know and be able to determine when a prima facie case is present for the initiation of either administrative or judicial proceedings within Service jurisdiction. They must be able to analyze cases and plan the course of investigations; adapt methods, techniques, and procedures to meet unusual situations or conditions; be skilled in conducting interrogations, eliciting information from violators or reluctant witnesses and evaluating reliability and credibility of witnesses; in examining records, documents, and other evidence to detect fraud; in tracing and uncovering evidence of assumed or

concealed identities; in reporting facts and distinguishing between relevant and extraneous information; in techniques of unarmed self defense; in the use of firearms; in undercover and surveillance work and in dealing with emergency situations. They must possess ingenuity and resourcefulness in investigating, developing, and exhausting all leads in a case."

The grades assigned to positions depend upon the types of investigations carried out. The complexity and delicacy; importance to national security, social welfare or economy; scope; and importance of the individuals involved affect the grade of the position. Thus, at the GS-11 levels, assignments "involve multiple issues; have a potential for developing into a number of individual cases; consistently require unusual skill and ingenuity in uncovering and developing facts; and, because of the seriousness of the violations or actions involved, or the prominence of the individuals involved, are either (a) greater in their effect as deterrents to further violations, or (b) have a greater prospective value to the security and security of the country, than the investigative assignments at the next lower level."

At the GS-12 level assignments "are relatively limited in volume [illegible] more of the "most complex and delicate nature, where the issues involved have a grave impact on the national security; involve important political, social, or similar implications; or involve persons whose conviction would be of material benefit to the nation's economy, social welfare, or security. The nature of the case assignments is such that the investigations are nationwide in scope, or where less than nationwide, are particularly complex, or the case is especially important from the standpoint of potential effect on Service-wide operations." At this grade level investigators "must be skillful in organizing and planning large-scale investigations, and coordinating multiple investigations conducted at many points within the United States and overseas."

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Many positions contain responsibilities which are classified at different grade levels. In assigning the final grade to such a position, we classify all the significant responsibilities to their appropriate levels, basing the final determination on the level of the duties which occupy a majority of the employee's time. Your position has in it a mixture of cases which are allocable to the GS-11 and GS-12 levels. Although some of your cases involve elements of assignments found at the GS-12 level, e.g., "complexity, delicacy, and impact on the national economy, social welfare, or security," we did not find that they occupied a majority of your time.

It is our decision that your position is properly classified as General Investigator, GS-1810-11.

Sincerely yours,

T. H. Rice

T. H. Rice
REGIONAL DIRECTOR

cc: Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D.C. 20536

A-302

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Associate Commissioner, Management
United States Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

Dear Mr. Loughran:

We refer to your letter of July 25, 1968 advising us that you will make site audits of sixteen special investigators who have appealed the classification of their positions.

Your request for an extension of time until August 30, 1968 in order to make these audits is granted.

Sincerely yours,

A-303

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UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WASHINGTON, D.C. 20536

PLEASE ADDRESS REPLY TO

AND REFER TO THIS FILE NO.

CO 512.1-C

JUL 24 1968

Director, New York Region
U. S. Civil Service Commission
News Building, 220 East Forty-Second Street
New York, New York 10017

Dear Sir:

Reference is made to your letter of June 18, 1968, concerning the classification appeal of sixteen General Investigators, grade GS-11, in our New York District Office.

In an effort to provide you with the necessary information you have requested, we have through our Northeast Regional Office, asked each of the appellants to certify that his present position description is accurate and complete or, alternatively, furnish us a statement as to why it is not, if that is the case. Unfortunately, the responses to our inquiries have been very general and, almost without exception, have stated that "my duties and responsibilities are best described in the position description for grade GS-1[illegible] General Investigator." We do not feel that we are able, based on this information, to give you a meaningful response. Consequently, we propose having a classification specialist from our Northeast Regional Office and perhaps one from our Central Office, specifically site audit each of the appellants' positions.

These site audits would tentatively take place during the week of August 5. Following the audits, specific evaluations would be made on each position and the results furnished your office by August 30, 1968.

We therefore request that the date required to reply to your correspondence be extended to August 30, in order that we may proceed as outlined above.

Sincerely,

E. A. Loughran
Associate Commissioner, Management

Enclosure

7/30/68

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Thomas G. Roney NERO
Associate Deputy Regional Commissioner, Management

E. A. Loughran
Associate Commissioner, Management

Classification appeal of 16 grade GS-11 General Investigator in New York District.

We have reviewed the material submitted by the appellants in response to our inquiry as to the accuracy and adequacy of the position descriptions currently assigned them.

Without benefit of the material they have recently submitted to the Civil Service Commission, but in view of their very general responses that have been made to our inquiry, we do not feel that we have adequate information to provide the Commission with a meaningful response. With respect to [illegible] of this, we feel specific duties of each of the [illegible] position should be made all the difference in the world with the District Director in New York. This will then be the basis for our position in this matter. We have requested that in order to complete this action, the New York Service Center [illegible] to provide the necessary information.

Please have the Regional Classification Specialist in the New York District Office during the week of August 5 to participate with a Central Office Classification Specialist in completing the desk audit.

Please advise the District Director in New York to instruct the appellants that their positions will be audited during the week of August 5 and that he will provide the interviewing classifier with copies of what they feel represents assignable grade GS-11 or GS-12 duties.

If possible, the Classification Specialists will take this opportunity to review the positions occupied by General Investigators performing Private Bill work for the purpose of updating the existing job descriptions assigned. [illegible]
New York Region C.S.C.

RF:cja

A-305

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Frank G. Costas
44-74 21st Street
Long Island City, N. Y., 11101,

July 31, 1968

Re: your PME:SF:rp
June 18, 1968

Mr. John E. Sauerhoff, Jr.,
Chief, Evaluation Branch
United States Civil Service Commission,
News Building, 220 East 42nd Street
New York, New York, 10017.

Dear Mr. Sauerhoff:

I am in receipt of your letter of June 18, 1968 (reference PME: SF;rp) requesting that I forward to you certain information needed for adjudication of the classification appeal submitted by me and fifteen co-appellants. I will furnish the requested information after some preliminary comments on my background, my position and my work as a GS-11 Investigator with the United States Immigration and Naturalization Service.

BACKGROUND: I am 38 years of age and have been employed in the position of General Investigator with the United States Immigration and Naturalization Service since October 15, 1962 after a lateral transfer from the Internal Revenue Service as a GS-9. I had been a Revenue Officer with the latter agency since October 12, 1960. Promotion to GS-11 with the Immigration Service was effected on March 13, 1966. I was awarded a Bachelor of Science degree by the College of the City of New York (1957) and have completed several credits at the Graduate School of the Polytechnic Institute of Brooklyn. I served in the United States Army from 1951 to 1953 and received an honorable discharge. I am able to converse in Greek, and to a more limited degree in Spanish, said ability being of benefit to myself in my work and to the Immigration Service.

My five and three-quarters years service as a General Investigator with this Service has been in the General Investigations Section at the New York District Office, except for two periods of training at the Service Officer Development Center, Fort Isabel, Texas (total - two months) and a temporary assignment of short duration with the Fraud Investigations Section of this office (two months). Currently the General Investigations Section, under a Supervisory Investigator (GS-13), is comprised of three squads, each headed by a Supervisory Investigator (GS-12), with said Supervisors being unassigned to any investigations. The squads are made up of ten -- eleven - field investigators with five -- six GS -11's and GS-9's in each squad.

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Prior to March 4, 1968, the General Investigations Section had been headed by a Chief (GS-13) with two Assistant Chiefs (GS-12) heading squads of about seventeen men each. The Assistant Chiefs assigned GS-11 field investigators to serve as "Aides" in the office (no field work) for four-month periods during which the former would supervise the GS-11's and the latter, in turn, the GS-9's. In the absence of the Assistant Chief, the entire squad would be supervised by the Aide.

The preponderance of my time during the past two years has been devoted to cases that are of GS-12 level in complexity and delicacy; impact on social welfare, national economy, political implications and national security; or scope and importance of individuals involved. The investigations frequently require that investigators in other parts of the United States and abroad be directed to conduct specific phases of the investigation. In addition the requests for overseas investigations are sometimes directed to American Consulates of the State Department for compliance. I, in return, often conduct investigations for other Service offices in the United States and abroad, for American Consulates abroad and for the Central Office and the Northeast Regional Office of this agency. All of this requires that skill be exercised in organizing and planning investigations and coordinating investigations at other points in the United States and overseas. This section is responsible for a wide range of assigned and unassigned investigations as was outlined in my appeal and as will be spelled out below.

It should be borne in mind that Character Investigations, whatever their basis, may, in certain cases, ultimately result in deportation proceedings, criminal prosecution, or revocation of naturalization. They must be conducted with tact and in certain instances, with great delicacy. I am including some investigations over one year old since I was an Aide from October 16, 1967 until March 2, 1968, as Acting Supervisory Investigator during the period March 4 - 8, 1968, was assigned to the Frauds Unit (March 14 --about May 24, 1968) and on a Search Project (to be referred to below) from June 25, 1968 until July 12, 1968. A few cases over two years old are included for their importance or uniqueness. The hours indicated as having been spent on each investigation is an approximation.

A. Persons of Such Notoriety or Status Who Could Give Rise to Heavy Pressures from Organized Groups or The Press:

1. Mohammed Mehdi (A7 274 283) - Most outspoken and oft-quoted anti-Israel spokesman in the United States for the United Arab Republic and its allies (Arab Information Center, and Action Committee on

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American-Arab Relations). Was located and served with Order To Show Cause for deportation hearing as directed by Deputy District Director. Had to be handled with tact, delicacy and diplomacy. FBI and considerable continuing Congressional interest. He is constantly quoted in the press and frequently appears on television and radio. (12/8/65--12/29/65 - [illegible] hours).

2. Geasner Gaston (A 10 098 823) - Character investigation of Gaston and his spouse followed his application for a waiver of excludability in order to be granted an immigrant visa by the State Department. Excludability was based on his having sought or procured a visa by fraud or wilful misrepresentation of fact. Investigation developed information from witnesses that Subject was a "detective" (agent)for the Duvalier government of Haiti. At this point the completed investigation was transferred to the Subversive Squad as is the policy in this office because of the "specialization" in effect for elaboration and development of the above-noted allegations. The file contains reports by FBI, CIA and State Department (6/24/66--8/10/66 - forty hours).

3. Mahmet Koldemir -(A 13 432 325)- Subject was formerly A-2 (attached to Turkish Military Attache, Washington). He was adjudged a co-conspirator in the sale of tax-free liquor at cut-rate prices. He was wanted by the Alcohol Tax Unit of the Treasury Department in the prosecution of the liquor case. Subject located and placed under Immigration Service control - Docket Section. (11/2/66--1/19/67 - fifteen hours). See attached newspaper clippings.

4. Windsor Laferriere - (A14 871 211) - Located during another investigation. Although carrying a diplomatic passport he was admitted as a visitor for pleasure and had stayed beyond the period of his authorized stay. His claim to be the former Mayor of Port au Prince (capital of Haiti), a newspaper director, a former Cabinet Member, a professor, holder of other governmental positions, and his anti-government (Duvalier) radio broadcasts were his bases for his application for stay of deportation (Section 243(h). He claimed he would be subject to persecution for his political beliefs should he return to Haiti. FBI and CIA has since provided information pertaining to the above claims and reflect that he is a leftist, a member of the Duvalier Secret Police, was involved in bomb plots, is a suspected Communist and has been arrested twice. Inquiry was made of State Department as to his claim of possible persecution. (3/07-ten hours).

5. NYC-71/27--C. This was a personnel investigation relating to a file clerk with this office whose supervisors reported chronic absenteeism and lateness, insubordination, and a suspicion, based

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on rumor, that he was smoking marijuana. The field investigation, in conjunction with the New York City Police Department, located a witness who claimed that Subject, who is married, was using marijuana and had sought to have sexual intercourse with her. Subject is no longer employed by this Service. (5/10-11, 1966; 6/12-13, 1966 - ten hours).

6. Anastasios Mylonas - (A 8 845 774) - Investigation to locate and enforce departure, or place under deportation proceedings. Subject is a professor with degrees in Anthropology, Law, and Criminology (PhD) whose two year foreign residence requirement was waived on petition by the Federal Bureau of Prisons. He is very highly regarded by those in the criminal field. Considerable Congressional interest was, and still is expressed concerning him. He worked for the Ohio State Penitentiary and was petitioned for by the University of Ohio, and by Queens College, New York City. Both later withdrew their petitions when they were made aware of the following information. He was found to have lived in the home of an elderly heiress who had been confined in mental hospitals for twenty-two years. He received large monetary gifts and an automobile from her and was named in her will as the prospective heir of $500,000, her house and car, a burial plot and the income from a $2,000,000 trust fund. The will, which he had convinced her to change to benefit him, was declared invalid. Discreet interviews of college officials, other field investigations in this area and in Canada ultimately established his presence in Canada. Congressional interest in his case continues to this date. (12/23/65 --5/25/66) Eighteen hours (See attached college newspaper clipping).

7. Atanasio Prestigiacomo - (A 12 119 559) - To locate Subject, a witness to the murder of Doctor Joseph Di Bella, by Subject's close friend, Armando Cossentino, and the doctor's wife, latter two being paramours. Subject's stay in the United States was extended at the request of the District Attorney so that he could appear as a witness for the prosecution. Interviews of numerous uncooperative witnesses and a number of New York City Police Department detectives located some friends, his brother, his girl friend, and ultimately, the Subject. He was turned over to the Deportation Section for appropriate action. (5/17--7/28---'65 - 35 hours). (See attached newspaper clipping.)

8. Buckner Lanoix - (A 13 565 586) - To locate or establish departure. Investigation established that Subject had entered the United States as an immigrant using a variation of his name and a different date of birth. He failed to disclose in his visa application that he had been in the United States from 1956 to 1960 , prior denial of an immigrant visa, or that he was afflicted with leprosy (one of thirty known lepers in the New York City area), said failure and affliction being grounds for exclusion

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from the United States. Subject located but departure not enforced as he is undergoing treatment and because of humanitarian aspects (His wife, parents, and sibling are all permanent residents of the United States). Tactful character investigation had to be conducted as a follow-up. (7/63 - 3/18/64)- twenty-five hours.

9. Teodocia Bueno - (A 13 912 484) - To locate - admitted as personal employee of diplomat; left employ; contact with United States Mission to the United Nations, the Philippine Consulate in NYC, and Maria Charnley, Cultural Attache to Philippine Mission to United Nations, located Subject and returned her to status in the employ of Mrs. Charnley, who is the sister of ex-President Osmena of the Philippines. (1/65 -- 4/7/65) - Fifteen hours.

10. Konstanti Konstantinides - (A12 337 478) - To locate personal employee of Cypriot Ambassador to United States and Permanent Representative to United Nations Zion Rossides. Field investigation including interviews of Cypriot Consul General Dinos Moushoutas and Mrs. Rossides resulted in Subject's voluntary appearance, detention and subsequent release for departure within a specified period. Handling of case had to be tactful and diplomatic. 2/[illegible]-5/65 - ten hours).

11. Aflatoon Samoohi - (A 14 386 248) - To establish status in the United States. Subject was mentioned in a gossip column of the New York Daily News as being employed at a well-known New York City restaurant. Subject located, found to be a student working without Service permission, and was warned to cease or face deportation proceedings. (10/65 - 11/9/65) -three hours.

12. National Security Cases:

Numerous Character Investigations are conducted with respect to attachment to the principles of the Constitution of the United States concerning aliens who had prior ties with World War II enemies of the United States, or alleged subversive backgrounds.

a. Lew Shun - (A8 021 840) - Unusual bonding efforts at time of arrest by two attorneys, one of whom was associated with two organizations on the Attorney General's List of Subversive Organizations. The other was reported to be an espionage agent for Japan or possibly China during World War II. He was investigated in 1942 for photographing defense installations. Subject had a notebook with many

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names and addresses in the United States and overseas with $ notations for each. He was employed by a man reported to be a wholesaler of narcotics (some of his employees had been arrested) Subject was applicant for permanent residence in the United States under Section 249. (7/14 - 12/29/66) Thirty hours.

b. Jorge Nossa - (A6 073 090) - Applicant for naturalization - reports by FBI and CIA contain allegations that Subject was Communist-oriented and had operated business machine schools in South America to train Communist agents to infiltrate the government of Colombia and bring about its downfall for subsequent Communist takeover. Said allegations could not be proved. In addition he had entered into two overlapping marriages. (7 -67 - 10/15/67) Two hours (transferred to another Investigator when I was designated as Aide)

c. Victor Pullwitt, aka- Philip Brechtel - (A3 482 646) - Entered U S as immigrant on 6/14/25 in identity of Brechtel to avoid quota limitations. Interned during World War II - refused to fight against Germany. Congressional interest. (9-65 - 9/9/65) Six hours.

d. Rudolf and Elena Mackenberg - (A 10 103 341 & [illegible] 253 326) - both interned as enemy aliens during World War II - members of German-American Bund and other Fascist organizations; he objected to military service during World War II; departed U.S. Argentine in 1948; refused entry - 1953, as "detrimental to best interests of the United States"; admitted 1960. Both applicants for naturalization. (2 - 24 - 5/9/66) Twelve hours.

e. Joseph Jemiller - A 13 869 233) - Applicant for naturalization. Detained on Ellis Island as enemy alien - 1942-3, objected to military service during World War II according to FBI reports. (2/19/ 65 - 3/3/67) Eight hours.

f. Adrien Ilvento - (A 11 543 161) - Born in Argentine, served in German Army - 1939, became German citizen - 1940, State Department reports in file. (9-66 - 5/5/67) Fifteen hours.

g. Friedrich Kolgrof - (A 11 208 236) - Voluntary Nazi Party member - 1933-5: Applicant for naturalization. (4 - 66 - 7/28/66) Ten hours.

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h. Hans Meusel - (A 11 528 870) - Storm Trooper and Nazi Party member - 1933-43. Applicant for naturalization. (5/23/ - 8/30/67) . Ten hours.

i. Erwin Hansen - (A8 648 890) - German propaganda broadcaster during World War II; declared "agent". Naturalization applicant. (4/66 - 8/19/66). Fifteen hours.

13. Numerous character investigations were conducted in cases of aliens who had knowingly committed crimes or had broken laws, or who were arrested, charged, indicted, fined, or imprisoned for violating a law or ordinance. Some of these cases may be considered GS-12 level work and others may be considered GS-11 level.

a. Domingo Costa - (A 10 090 546) - Investigation conducted at request of Los Angeles office as Subject was applicant for Suspension of Deportation. His fraudulent marriage was one of the Adria Gonzalez - Puerto Rican -Portuguese marriage ring cases. Subject was convicted for visa fraud and 18 USC 1001, but conviction was reversed. Gonzalez was convicted and served a prison sentence. (12/65 - 3/7/66). Eight hours.

b. Rabbi Menachin Drizin - (A 11 536 463) - Applicant for naturalization - failed to disclose arrest for criminal trespass and malicious causing of damage; wanted by Israel for failing to report for military service. (5/27/66 - 4/17/67; 8/4/67 - 9/25/67). Thirty-five hours.

c. Nestor Ayiotis - (A11556 054) - To ascertain if Subject, a lawful permanent resident, had effected rehabilitation after release from prison where he served two years, four months, for Second Degree Robbery and Grand Larceny. Extensive investigation, including interview of Parole Officer, disclosed no adverse information. However, after completion of investigation, Subject was accused of extortion. Investigation was conducted because his entire family is in the United States and because Crete, his homeland, would not accept his return there. (4/67 - 9/13/67). Twenty-five hours.

d. Andris Pulsts - (A 8 026 007) - Applicant for naturalization. Arrested for car theft, drunk driving, two speeding charges, driving wrong way on one-way street. (6/66 - 12/22/66). Four hours.

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e. Hans Hunziker - (A 12 080 383) - Fined by United States Customs for failing to declare imported items. (9/66 - 8/2/67). Eight hours.

f. Magdolna Wolf - (A 10 995 457) - Shoplifting. (4/67 - 6/9/67). Four hours.

g. Michael Power - (A11 601 500) - Simple Assault. (3/66 - 3/3/66). Fourteen hours.

h. Irakalis Maragos - (A 15 488 512) - Disorderly Conduct. (12/66 - 4/27/67). Eight hours.

i. Enrique Heitzer - (A 12 134 616) - Assault, Third Degree. (2/67 - 8/23/67). Eight hours.

j. Samuel McKay - (A 12 322 719) - Drunk Driving (2). (5/67 - 12/26/67). Eight hours.

k. Giuseppe Briganti - (A 10 320 738) - Statutory Rape. (11/66 - 1/19/67). Four hours.

l. Gioacchimo D'Arrigo - (A 8 837 754) - Attempt to defraud. [illegible]. Nine hours.

m. John Dolan - (A 8 881 852) - Forgery. (5/66 - 12/9/66). Deported. Eighteen hours.

n. Vincenzo Arrigo - (A 12 365 937) - Aggravated Theft, Personal Assault. (5/67 - 7/21/67). Six hours.

o. Ante Vojnovic - (A 12 424 972) - Paternity suit. (6/67 - 3/8/68). Seven hours.

14. Miscellaneous Character Investigations.

a. Chon Tai Wai - (A 10 255 869) - Suspension of Deportation. Subject claimed to be single but investigation conducted locally and in Hong Kong disclosed Subject has wife and a son. Subject decided to recant all previous testimony. Special Inquiry Officer commended Investigator on investigation. (6/66 - 2/8/67). Thirty-five hours.

b. Ruben Rodriguez - (A 8 774 935) - Applicant for naturalization. Completed investigation disclosed Subject might possibly be a bookmaker. Transferred to Criminal, Immoral and Narcotic Squad for inquiry into alleged criminal activity. (6/66 - 10/7/66). Eleven hours.

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c. Orquidea Franco - (A 8 092 124) - Naturalization applicant. Subject had cooperated with Attorney Roy Lange to enable Cubans to gain entry into Canada with false claims to United States citizenship in order to secure immigrant visas for the United States. Action was brought against Attorney Lange. (4/67 - 10/15/67). Twenty hours.

d. Ernest Kennedy - (A 7 448 453) - Applicant for naturalization. Former official of newspaper with largest circulation in the United States. Treated for alcoholism in New York State hospitals. Investigation to ascertain if Subject was an habitual drunkard conducted. (3/67 - 6/21/67) Fifteen hours.

15. Social Welfare. Cases involving aliens who are, or who had been confined in mental institutions. Investigations are usually at the behest of the New York State Department of Mental Hygiene. Must be tactful and delicate in dealing with Subject, witnesses, relatives, and hospital personnel.

a. Yolanda Bernat - (A 10 071 822) - Female medical doctor from Colombia who was seeking citizenship through naturalization in order to practice medicine in New York. Character investigation based upon protracted unemployment and questionable means of support, disclosed three periods of confinement in a mental hospital. United States Public Health Service has found her certifiable as excludable at time of her last entry into the United States in 1957. This matter is to be referred to the Northeast Regional Office for approval for issuance of an order to show cause. Required departure or deportation from the United States could result. (10/21/66 - date). Thirty-hours.

b. Otto and Erica Dryzga - (A 11 042 222 - A 11 042 225) - (permanent resideats of the United States). To establish Mr. Dryzga's reported departure from the United States as requested by Department of Mental Hygiene. Investigator verified departure, but found that Mrs. Dryzga has also been confined in a mental hospital and was now living with a male other than her husband. Latter information will be of interest should she apply for any Service benefits. (3/16/ - 7/14/67). Forty hours.

c. Madeline Hetter - (A 14 892 388) - Nonimmigrant. To locate or verify departure. Departure verified. (4/13 - 5/22/67). Five hours.

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d. Morteza Makhmalchi - aka - Moto Moore (prizefighter). (A 12 791 480). Nonimmigrant - Investigation into bonafides of marriage, and alleged treatment for mental illness, based on informant's letter. Subject had feloniously assaulted informant. Subject denied prior marriage in Iran, or any mental treatment there and refused to make sworn statement to that effect. He married a United States citizen, but said marriage was found to be not bonafide . Investigation in Iran verified his confinement in a mental hospital, also a prior marriage he had concealed. United States citizen spouse secured a divorce and withdrew her petition in Subject's behalf. He failed to appear for his deportation hearing and was ordered apprehended. Subject was found to have married another United States citizen immediately after his first citizen wife divorced him. Subject located in mental hospital where he was confined at completion of investigation. He is now applying for a waiver of excludability inasmuch as United States Public Health Service has certified him as excludable at time of his last entry, having suffered one or more attacks of insanity. (7/6/65 -8/65; 1/10 - 3/7 - 1967). Thirty-five hours.

e. Dominica Mazzone - (A 6 980 597) - Permanent resident - to ascertain deportability - not found certifiable by United States Public Health Service. (12/66 - 3/22/67). Three hours.

f. Elsa Gradowitz - (A6 614 662) - Applicant for naturalization - Investigation to ascertain from witnesses current rationality of actions of Subject - report submitted to Assistant District Director for Citizenship, NYC. (6/5/67-2/20/68). Twenty hours.

g. Maria Lopez - (A 14 855 937) - Nonimmigrant- to locate or verify departure - departure verified. (1/16 - 5/1/67). Three hours.

16. Orphan Adoptions.- Investigations are conducted of petitioners in orphan adoption cases. The agencies from which many of these children are adopted are national in scope and international in reputation. These investigations encompass an exhaustive home study of the prospective parents and their ability to provide the proper home environment and upbringing for the orphan. A complete character and loyalty investigation is a necessary phase. These cases have State Department, local welfare, judicial and often Congressional interest. They are handled expeditiously and the report of investigation is used as the basis for approval or disapproval of the petition and, in turn, the petition serves as the basis for the issuance of

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the visa, should said petition be approved.

a. Orphan already selected.

Wanda Laskowska - (A 14 785 758)-Comprehensive investigation disclosed that female petitioner had been a long term employee of a firm which attempts to collect all publications of the United States Armed Forces and information on its installations and routes such material to an Iron Curtain country. An overseas investigation was also conducted by the officer-in-charge at Vienna. Upon completion of the orphan investigation this matter was transferred to the Subversive Squad in order to further interview the female petitioner. (3/22/ - 5/5/66). Twenty hours.

Ana Rodriguez - A 14 792 280) - Included overseas investigation - (1/1/ - 6/29/66). Fifteen hours.

Yung Soon Yoon - (A 14 897 968) - Congressional interest. (8/ 11 - 10/11/67). Twenty hours.

b. Orphan not yet selected. Temporary files are set up under the general number OI - 204.3, followed by the prospective parents' surname.

Stathis, Latrides, Villas, Franges, Cocolaris, Comos, Chahalis, and Mimaris. In the latter case, meticulous investigation disclosed that the male parent had attempted suicide a couple of years before, a fact which would certainly have a bearing on the adjudication of the orphan petition. (8/65 - date). Total hours approximately: 150.

B. Revocation of Citizenship: Among the more difficult types of investigations that I have handled have been revocation investigations. Through painstaking, lengthy, careful, and ingenious investigation, both in this district and in other areas of the country, the object is to gather evidence to prove that naturalization -generally several years before - was obtained by fraud or misrepresentation. This work requires a thorough knowledge of the naturalization laws, regulations, and procedures in effect at the time citizenship was granted, as well as the effect of court decisions in similar cases and the prevailing policy and procedure of the Immigration Service. If the Investigator has successfully gathered sufficient evidence, the case is then referred to the Citizenship Section for consideration of issuing an affidavit of good cause for revocation. As a rule, the case is then referred to the Regional and Central Offices of this Service for final authorization for a revocation suit by the Office of the Attorney General. They are usually lengthy and

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require auxiliary investigations in other districts, and quite possibly, abroad, and may last for extended periods of time. The number of these cases opened for investigation is rather limited:

1. Edmund Buchanan - (All 052 572) - Investigation arose from another investigation in which a young woman had claimed that Subject had fathered her child during the period he was required to establish good moral character for naturalization purposes. Subject admitted in a sworn statement that he committed adultery during the eligibility period but not with the original complainant. Revocation proceedings were not initiated because his alleged paramour could not be located, and further, if his naturalization was revoked, subject could immediately file a new petition, owing to the lapse of time since the adultery was committed. (6/66 - 4/19/67). Fifty hours.

2. Santo Siragusa - (A 6 269 777) - Subject did not disclose separation from wife at time he petitioned for naturalization, nor that he had been divorced at the time of his final hearing. Investigation included interview of Subject's first wife in Phoenix, Arizona. This matter is still under consideration for revocation by the Philadelphia District, based upon information revealed in my investigation and report. (7/66 - 6/30/67). Forty hours.

3. Veraldo Brandoni - (A 10 060 089)- Based on false statements in Subject's petition for naturalization to the effect that his wife and children were living with him at the time of his naturalization. Statements were secured from his wife and a son attesting to their separation from him at the time in question. The identity of his paramour of long duration, including the period in which he was required to establish good moral character was established. Investigation was requested of the Newark district office. Case was transferred to another GS-11 Investigator since I was assigned by the Assistant Chief to be his Aide. (5/9/ - 10/15/67). Twenty hours.

C. Investigations conducted for other government agencies and Immigration Service Offices in United States and abroad, and/or higher echelon levels in the Immigration Service: (Central Office, Northeast Regional Office, District Director, etc.).

1. It is not at all unusual for a Department of State and Immigration and Naturalization Service Officers in the United States, and at Consular posts abroad to forward Operations Memoranda

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and requests for investigations. The results of the investigations are used for various purposes including, but not limited to, adjudication of petitions for orphans, waivers of excludability, applications for immigrant and nonimmigrant visas, location of nonimmigrant aliens suspected of violating their status in the United States, and establishing, or verifying suspect , fraudulent or malafide relationships or claims from which immigration benefits may be derived.

a. Orphan Adoption Cases (See - A - 16, supra).

b. Waiver of Excludability. These are investigations conducted for the appropriate officer-in-charge of this Service in the United States or abroad when an application is submitted to a United States Consulate for a visa (usually an immigrant visa), it is found that said applicant is excludable from the United States for any one or more reasons and that he has made application for waiver of the ground(s) of excludability. The decision by the officer in charge to grant or deny the waiver will be based on the result of investigation and ultimately the issuance or the denial of the visa will be contingent upon the action taken on the waiver. These investigations are specially controlled and their progress is reported to the Regional level on a monthly basis. The purpose of the waiver is to allow the applicant to enter the United States to join a parent, spouse, or child who is residing in the United States permanently. Operating Instructions require that the extent of the relative's knowledge of the reason(s) for the exclusion, and the degree of hardship to be endured by the relatives should the waiver be denied, must be fully explored. A complete character and loyalty investigation must be conducted concerning the immediate relative(s), should he or she be an adult. The following are cases in which the applicant had been found to be excludable for seeking or having sought to procure or has procured a visa or other documentation or is seeking to enter the United States by fraud or through wilful misrepresentation of a material fact:

1. Nikolaos Tzakis - (A14 816 366)- (8/11 - 10/19 - 66). Twenty hours.

2. Audley Timoll - (A13 356 628) - 9/28 - 11/2 -67) fifteen hours.

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3. Gilbert Hall (A 11 594 745) - (11/25/66 - 1/5/67). Ten hours.

4. Antonio Manto (A 13 150 478) - (1/67 -2/10/67). Five-hours.

5. Wai Shoong Wong - (A 13 199 170) - 11/66 - 12/27/66). Four hours.

6. Gesner Gaston -(See item A-2, supra).

My current caseload includes five cases of this type. (see item in Section G, below).

c. Fraudulent marriages, or bonafides of marriages. These are fraud investigations referred to this office by the American Consul at Toronto, Canada and assigned to this writer on March 14- 15, 1968. Their bases were the wide disparity in ages between alien applying for immigrant visa and his or her United States citizen or lawful permanent resident spouse, on whom issuance of the visa depended; the involvement by "Suspect Third Parties", i.e., attorneys under indictment or investigation by this service; or other factors.

1. [illegible] - wife found to have been arrested for possession of narcotics and prostitution. Investigation disclosed no evidence of termination of her first marriage and that Subject has not used her address at his place of employment, including a new address filed in January, 1968. Also indications that he has a wife and child in Jamaica were encountered. Order to Show Cause issued. Completed 3/25/68- Twenty hours.

2. Gloria Frazier - A 14 401 018 - Investigation also based on Central Office, State Department, requests with copies of report of investigation to be submitted to Central Office and Northeast Regional Office (see attached memorandum - CO 1109.206). Investigation disclosed United States citizen spouse to be using address different from that of Subject and not to be known by building agent where subject lives. Referred to Fraud Squad for necessary follow-up, as per instructions, on 5/29/68. Subject to be picked up, and order to show cause issued. Thirty hours.

3. Millicent Speaks - A 14 890 453 - Investigation failed to locate spouse at address of record, but found him to be on Welfare and previously married.(Termination of first marriage not established.) Subject to be picked up and order to show cause issued. Referred to Fraud Squad on 5/13/68. Fifteen hours.

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4. Doriene Gittens - A 14 833 523 - Spouse located living apart from Subject at another address despite coaching of an important witness by Subject. Referred to Frauds Squad on 5/22/68. Twenty hours.

5. Evelyn Hillary - A 13 923 349 - United States citizen spouse found to have been arrested twice for sodomy - alien's aunt, who claimed to be closest relative in United States, unaware of "marriage". Alien may have been married in Jamaica, according to information developed during investigation. Referred to Fraud Squads on 6/24/68. Fifteen hours.

6. Johathan Morgan - A 14 849 645 - Although spouse claimed reconciliation with Subject after separation of eighteen years, investigation revealed they were not living together. Counsel so advised. Closed 5/21/68 - Twenty-five hours.

7. Linette Smith - A 14 356 668 - Although witness, who obviously was coached by Subject, claimed latter and her spouse lived together, investigation with assistance of the office of Secretary of State of New York State, located spouse living elsewhere. Referred to Frauds Section for issuance of order to show cause on 5/20/68 Twenty hours.

8. Veda Poulson - A 13 892 723 - Interview of spouse disclosed that he was not sure of Subject's whereabouts or where she actually lives. Further investigation disclosed two residences maintained by Subject and that spouse had been on Welfare and was previously married. His first spouse reportedly is deceased. Investigation also disclosed that spouse of Subject had been arrested for burglary, grand larceny, gambling, assault, and violation of Alcohol Beverage Commission laws. Referred to Frauds Squad for apprehension and order to show cause, on 5/9/68. Eight hours.

9. Harold Alexander - A 15 440 691 - Subject located living with married female, who had borne his child. His United States citizen spouse could not be located. Order to Show Cause issued, and Subject ordered deported. Closed 4/14/68. Thirty-five hours.

Investigation of the following cases, which also were referred for investigation by the American Consul at Toronto, disclosed that the marriages involved were apparently bonafide:

Louis Fisher - A 14 885 186 - Completed 4/26/68 - six hours.
Alejandro Stephans - A 17 562 195 - completed 4/3/68 - eight hours.

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Ciro Santana - A 14 862 199 - 4/3/68 - six hours.
Louis Fornce - A 14 871 243 - 4/3/68 - ten hours.
Milton DaCosta - A 17 547 252 - 5/16/68 - six hours.
Jocelyn and Kathleen Nelson - A 14 386 301--2; - 5/13/68 --five hours.
Jose Liz - A 14 860 356 - 4/29/68 - ten hours.
Leonardo Gigante - A 14 802399 - 6/3/68 - twenty hours. File reflects interest by United States Immigration Service Liaison Officer, Ottawa, Canada, Royal Canadian Mounted Police, Canadian Immigration (Warrant for Arrest outstanding), and Interpol.
Georgia Stubbs - A 14 382 432 - 4/26/68 - four hours.
Randolph Perch - A 13 857 432 - 4/3/68 - eight hours.
Noel Powell - A 14 844 508 - 3/22/68 - Four hours.
Carmen McLaurin - A 13 895 636 - 5/17/68 - six hours.
Joseph Timal - A 14 841 768 - 5/17/68 - ten hours.
Lewin Carter - A 14 405 778- 5/23/68 - eighteen hours.
Sakhir Kahn - A 12 797 994 - 4/26/68 - five hours.
Mendos Kadeau - A13 903 996 - 5/16/68 - five hours.

Three of these cases are still under active investigation by this officer (see Section G).

d. Sixth Preference Investigations. The Secretary of Labor has found that persons with certain skills and trades are in short supply in various areasof the United States. Industry has made it known that their operations would suffer if this shortage of craftsmen in the United States continued and requested that qualified foreign nationals be permitted to fill these needs in the national interest. Such skilled aliens are therefore given preference in issuance of immigrant visas. Investigations are requested by the Applications Section of this office or by the Consular Posts abroad where the alien has applied for an immigrant visa.- When a determination must be made of the needs of the petitioning firm; it must be learned if it has the necessary facilities for such a craftsman; whether it is financially able to hire the alien; efforts made to find help domestically; whether the alien is capable of performing the job if he is already so employed; if his salary is as reflected in the petition, and if it is comparable to others performing similar work; whom the alien would replace; whether fraud might be involved; and many other aspects of the situation. In order to ascertain the bonafides of the petition and the qualifications of the prospective beneficiary a comprehensive knowledge of the industry in question must be a prerequisite of the investigation. Such knowledge is acquired through studious research, inquiry, and reading. The investigations with reference to sleep-in domestics may be considered to fall within the GS-11 category.

Maria Pacino - A 12 791 414 - Sample stitcher, attorney was suspect

Third Party - Case closed 6/2/66 - Five hours.
Andrea Savino- A 14 814 481 - Auto mechanic - 10/6/66 - 3/7/67 - five hours.
Giuseppo Greco - A 14831 852 - Motorcycle mechanic - 2/16 - 5/5/67. two hours.
Angelo Passalacqua - A 17 341 965 - Motorcycle mechanic - 2/16 - 5/5/67 - two hours.
Chao Tee Chun - A 15 960 555 - Chinese chef - 3/15 - 10 /21 - 66- three hours.
So Hing Leong - A 14 849 877 - Sleep-in domestic - 4/21/ - 9/21/67- four hours. Appears to be non bonafide petition. Alien is also remarried to elderly Chinese male in the United States who has claimed to be a United States citizen. He may confess to a false claim to citizenship after Subject attains permanent resident status and seek same status for himself through their marriage. Extended hearings are still in progress. 4/21 - 9/20/67 - six hours.
Baldasare Loverme - A 14 790 804 - Hand stone cutter - 6/24 - 10/13/66- three hours.
Filippo de Leonardo - A 14 807 213 - Butcher - 7/67 - 10/6/67 -five hours.
Shahin Fajiram - A 14 802312 - sleep-in domestic. 1/67 - 5/18/67 - four hours.

2. Miscellaneous Investigations.

1. Paraskevoula Cooper,aka Birkett, aka Gilmore nee Stephenou - A 14 386 588 - Information received from the Border Patrol advised that Subject was in the United States illegally. She was subsequently found to be married to a United States citizen and was seeking to attain permanent resident status in the United States through this marriage at our Norfolk office. Further investigation disclosed that file relating to her was at our Dallas office. Perusal of this file disclosed prior overlapping marriages and no indication that the second marriage had been terminated/ first marriage had been terminated by a Mexican "proxy" divorce, which is not considered legal for immigration purposes. She was located, placed under Docket Control, New York City, and required to depart when her third husband failed to prosecute his petition in her behalf. Subject's presence in Europe has been established. (11/9/65 - 3/21/66) -ten hours.
2. Meinhard Kaju - A 4 469 035 - Applied for relief from military service in 1943, Warrant of Deportation issued in 1950; deported in 1960. Application to reapply for permission to enter was denied as he is mandatorily excludable under Section 212(a)(22) in that he is ineligible for citizenship. Information was received from this Service's office at Toronto indicating Subject might have reentered United States after he was refused admission in 1966. Subject located and an order to show cause was issued.

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Prosecution under 8 USC 1326 was declined and his departure from the United States was enforced. He is now listed in the Service Lookout Book to prevent his re-entry. (5/66 - 8/13/66) Ten hours.

3. Angeliki Lagoumis - A 12 389 397 - Officer in Charge, Athens, requested interview of Subject's United States citizen spouse as to the bonafides of their marriage, as subject was reported to have been in Montreal after her spouse had filed a petition in her behalf for an immigrant visa, had had an affair with a married man there and had been described as a prostitute. Her spouse when interviewed submitted a withdrawal of his petition, and subsequently its approval was revoked. (7/66 - 11/29/66) five hours.

4. Christos Voutas : A 15 952 478 - Officer in Charge, Athens, requested interview of United States citizen spouse, who was eighteen years older than Subject, as to whether she still considered their marriage to be a valid one, or whether she wished to withdraw her petition, in view of Subject's refusal to take her to his home town when she joined him in Greece to consummate their marriage. (4/5/ - 5/5/67). Four hours.

5. Georgus Pajerwerk - A 17 [illegible] 480 - Atlanta District Office that Subject was arriving at New York City and departing by train; suspected of stealing silverware and automobile; apprehended at major railroad terminal by writer and another Investigator with cooperation of railroad police. (5/15/67). Six hours.

6. Rex Bradley - A 14 387 573 - Subject, a native of Canada and a permanent resident of the United States, abandoned his United States domicile; surrendered his permanent resident card at the Canadian border and departed from the United States on October 12, 1966. He was refused admission to the United States on October 27, 1966, as he had a one-way ticket to New York and had only ten dollars and was unemployed. He was suspected by Service border personnel of having effected illegal entry into United States to seek employment after giving up his permanent resident status. Latter action was probably taken to avoid military service. Investigation indicated Subject had returned to Canada. Matter was referred to the appropriate Service Office for verification. (11/66 - 1/30/67). Twelve hours.

7. Perla Pablico - A 13 961 634 - San Francisco District Office advised that Subject was wanted as an overstay visitor working without Service permission. Philippine Community in San Francisco

advised our office that Subject was passing bad checks. She is wanted by the Internal Revenue Service for unpaid business taxes. Subject located, order to show cause issued for appearance at deportation hearing. (3/66 - 8/12/66) Fifteen hours.

8. Eshak Senehi - A 14 845 677 - United States Embassy, Tehran, Iran, advised that information was received from the Canadian Embassy at Tehran and Canadian Immigration at Toronto that Subject was in United States working in violation of his visitor's visa. Allegation unfounded. Subject's departure from United States verified. (11/25/66 - 2/27/67) Three hours.

2. Central Office, Regional and District Director Investigation Requests.

These investigations are referred to as "Specials" and often arise from interest expressed by members of Congress, the press, or various diplomatic functionaries. Some are assigned for investigation while others are unassigned because they do not fit into any specific category but all must be resolved with great dispatch. These matters call for ingenuity, tact, delicacy and discretion in execution, with the investigative results usually forwarded to the originating source. Many of these cannot be recalled because in many instances, no file numbers were involved, nor written reports made as results were telephonically or telegraphically submitted in some cases.

a. Doctor Anthony Doria - C 7 489 418) - Naturalized United States citizen - Head of college in Vermont and author - Central Office requested through Northeast Regional Office that all possible information as to Subject's background and experience be ascertained. (Reason not given). Interviews conducted at four colleges and high schools in New York Metropolitan area. (6/19 - 21 - 67). Eighteen hours.

b. Bugaślaw Mlejnek - A 12 427 677 - District Director, Anchorage, Alaska requested priority investigation to interview Subject for all information he could provide about Stanislaw Borucki, Polish seaman defector. Investigation disclosed Borucki's anti-Communist beliefs and enforced leadership in a unit of the Federation of Polish Youth, a Communist organization. (7/7/65 - 7/9/65). Eight hours.

c. [illegible] Caribbean Restaurant - NYC- N-23545- Investigation directed by District Director, New York District as the result of a complaint to Attorney General by Attorney of Subject firm who alleged abusive treatment by Service employees of this office, while representing a client seeking benefits of this Service. Investigation at Subject firm disclosed that a well-known band from the Dominican

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Republic, for which a petition had been filed but not approved, had not entered the United States because of the pendency of the petition. The owners complained that their business ventures success depended upon the appearance of the band at their grand opening. Newspaper and radio publicity resulted in a large turnout, but many people walked out or declined to enter when it became known that the advertised band would not appear. The loss to the owners approximated $75,000. Attorney, when interviewed, accused Service officers of abusive treatment, unreasonable questioning, search, and a degree of restraint approaching arrest. He also accused officers of referring to a booking agent with him in an uncomplimentary manner. Report was submitted to the District Director. (1/9 - 10 - 1968). Six- hours.

d. Allan Sorensen (A 15 596 473) and Hans Jensen (A 15 471 425)- Assistant District Director for Investigations at NYC instructed that Subjects, reported to have come to the United States in order to picket Danish ships, be interviewed to ascertain their immigration status; if nonimmigrants, what reason they gave to the American Consul for coming to the United States when applying for their visas and what their true intentions were in coming to the United States. Subjects were foundto be visitors for pleasure, that this wastheir intention and that they only got involved in the picketing when they found that their union was so involved upon their arrival in the United States. The other pickets were United States citizens who are professional pickets. (5/29/68) Seven hours. (See attached newspaper clipping).

e. Peng Kok Goh - (A 13 946 188) - and Peng Kim Goh (A13 868 756) - District Director, NYC, directed investigation since Subjects (brothers) were seeking permanent resident status with a waiver of the Labor Department Clearance requirement based on proposed schooling of two year duration. Their claim for the waiver was considered suspect. Purpose of investigation was to ascertain if they were, or had been, working, their school attendance and scholastic standing, the length oftheir contemplated student programs, and how their school and living expenses are being financed. Extensive investigation involved numerous schools, landlords, building management agents, banks, suspected employers, examination of payroll records, and tax returns, surveillance, subpoena of bank records, and examination and analysis of same; etc. Report submitted to District Director. (5/12 -9/20/67). Sixty hours.

f. Juanita Rivas - A 17 008 633 - Central Office requested an investigation to ascertain Subject's status in the United States,

and the reason for leaving her sponsor's employ one month after entering the United States. Sponsor had complained to Central Office. Subject located, information secured, and reports submitted to Northeast Regional Office and Central Office. (8/14 - 9/1 - 67). 7 hours.

g. Pedro Gomez - A 14 849 766 - Investigation directed by Deputy District Director, NYC, based upon a complaint by a married couple that Subject, in the belief that they had turned him in to this Service, has threatened their lives and those of their children, threatened the wife with a knife, had beaten the husband over the head, and molested the children. To avoid further harm the children were reportedly not being allowed to go to school. If allegations were found to be true, subject was to be apprehended, detained without bond, and required to leave the United States under safeguards. Investigation at the residence of the complainants disclosed no knowledge of the reported incidents; the childrens' school reported no excessive absenteeism. (1/25/ - 2/10/67) Seven hours.

D. Other Miscellaneous Investigations.

1. George Kapnisakis, aka John Halley, w/aliases - (A 10 131 289)- [redacted]. She advised that photograph of George Kapnisakis, to whom a passport she had found in her apartment was issued, strongly resembled her missing husband, John Halley, who had, allegedly, been born in West Virginia. Subject's file reflected his last entry to be 9/27/54 as a student from Greece. Mrs. Halley, who was separated from her husband, advised that he had disappeared in February, 1964, and upon his return in August, 1964, claimed amnesia due to an automobile accident in California and that he could not recall her or her parents, nor anything prior to August, 1964. Psychiatric treatment had helped to restore some of his memory but not prior to August 1964. He was located, fingerprinted and his true identity as Kapnisakis, established. Because of his United States citizen wife, who desired a reconciliation and the opportunity to petition for him, and their United States citizen child, and also, because of his service in the United States Army from 1955 to 1958, departure was not enforced. (11/9/64 - 4/15/65). Twenty-five hours.

2. Kenneth Francis (A 14 393 838) and Bertram Grant (A13 356 614) - Apprehension of the above Subjects by this writer and another Investigator resulted in the uncovering of the "Leamington Hotel Visa Fraud" (file: NYC 50/43.40), and the resultant investigation. Affidavits were secured from subjects which disclosed that transit visas were fraudulently secured as part of a scheme to gain entry

into the United States in order to accept unauthorized employment. The visas were sought at the American Consulate at Kingston, Jamaica for the alleged purposes of stopping over in Miami, Florida enroute to the Island of Freeport, where Jobs were supposedly awaiting the aliens. Fraudulent employment letters from firms supposedly located in Freeport were presented to the Consul to induce him to issue the visas. A "package deal", which included the employment letter, airline tickets to Miami, bus tickets from Miami to New York City, (to avoid apprehension by this Service), and a contact in New York City was secured through an arranger in Kingston for a price. About 65 such cases , possibly 70 such cases were uncovered by General Investigations, and turned over to the Frauds Squad for follow up and elaboration. Some of the aliens were permitted to leave the United States voluntarily at their own expense or were deported, others became subjects of marriage fraud investigations resulting from their marriages to United States citizens or lawful permanent residents, and still, others continue to be under active investigation. The arranger, who was located in the United States, in an illegal status, was deported. (12/18/65). Four hours.

3. Winnifred Stokes - aka Winsome Scott - (A13 933 788) - Extensive investigation to locate Subject while she was in the United States beyond her authorized stay, disclosed [illegible] (writing to Lonely Hearts Club ads in National Enquirer) by Subject to contact a United States citizen to marry in order to attain permanent resident status in the United States. Numerous interviews, including investigation in Arkansas, and extensive surveillance eventually located Subject, married to a United States citizen, eighteen years her junior. Order to Show Cause was issued and the matter was referred to the Frauds Section for further investigation. (11/65 - 11/14/66). Twenty-five hours. (See attached memorandum CO 1109.206).

4. We conduct investigations of schools petitioning for approval to serve as institutions of learning for foreign nationals. These schools may be nationdin scope and international in reputation. The training of foreign students in the United States is of prime interest to the United States Government in promoting good-will and providing facilities for foreign students to develop skills of material value to their native economies. Our investigations cover matters such as curriculum, physical facilities, standards of education, qualifications of instructors, grading and attendance procedures, financial stability of the school, renewal of all pertinent licenses, evidence to show that the school qualifies its graduates for employment in the occupations for which preparation is offered, and all other issues germane to the particular investigation. A report of the results of investigation is prepared,

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and based upon the results thereof, and consultations with the United States Office of Education -if necessary - to advise if this is considered an established institution of study, this Service (USINS) will grant, or withhold, accreditation. Abuses by schools previously accredited, require vigorous investigation to uncover the potential wide-scale use of schools as vehicles for obtaining admission to the United States under fraudulent pretenses.

a. Flushing Beauty School (NYC 214.f 2.858) - (9/20/66-1/5/67). - Seven hours.

b. Poppenhausen Institute - (NYC 214 f. 2.880) - (11/18/66 - 3/2/67). Ten hours.

5. During the period June 25 -- July 12, 1968, I was one of many Investigators in this office assigned to a Search Drive to locate and apprehend female aliens working illegally in the United States as live-in domestics. Inasmuch as they were employed in well-to-do areas of the metropolitan area, considerable tact and diplomacy was necessary to avoid any untoward incidents and their ramifications, i.e., inquiry by the press, or Congress, or complaints by same. This was Search Work and may possibly be considered GS-11 level work. (Ninety hours). (See attached newspaper clippings). Not included as GS-12 work.

E. Control Officer - Escape of Aliens from Custody.

Attached is memorandum NYC 242.13-P, dated December 28, 1966, by the District Director, NYC, in which I am designated as one of six Investigators currently in the New York District to act as the Control Officer in those cases where an alien escapes, or attempts to escape from Service custody. The Control Officer is in charge of the personnel aspect of the investigation and the reapprehension efforts. All the Investigators assigned to the reapprehension effort must make timely reports to the Control Officer. Underlining in the attached memorandum is mine.

F. Supervisory Assignments - Aide.

From October 16, 1967 until March 1, 1968, I was assigned to the position of "Aide" to the Assistant Chief, General Investigations Section (GS-12). The Assistant Chief would supervise about eight GS-11 Investigators, i.e., distribution of work, coordinating and controlling the completion of cases, furnish leadership and guidance, review and approve reports, and would carry out all administrative functions. I, as the Aide, had

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the same responsibility, function, and authority over approximately eight GS-9's, with the exception of approval of expense vouchers, and the use of guns and automobiles. In the absence of the Assistant Chief, I would carry out his functions for the entire squad, including GS-9's and GS-11's, with the above-noted exceptions. I served as "Aide" for a total of about six hundred hours. (about 72%), and as Acting Assistant Chief, for approximately two hundred andthirty hours (about 28%), of the time, including about forty-seven and a half hours as Acting Supervisory Investigator, (Supervisory Investigator is new title for Assistant Chief), during the period March 4 - -8, 1968. I direct your attention to the last sentence of Item 4 on page 3 of the Position Description for a General Investigator, GS-11 (Series 18-10), Copy attached. Underlining is mine. I was rated by the Assistant Chief as having done a very good job while so assigned.

G. Current Caseload.

I am currently assigned 46 separate investigations, amongst which are the following GS-12 level cases, with their dates of assignment. The hours to be expended on each investigation cannot be estimated at this time. Indicated are hours spent to date.

1. Chinese Fraud Cases: (These cases are covered in the GS-12 Position Description under Section II - 1 - (c),(e),(f), and possibly (g)). (Thirty-five hours).

   a. Louie Yat - (A 17 548 159) - (6/14/68)
   b. Ng Good Wah - (A14 886 216) - (6/13/68)
   c. Wong Gwock Gong - (A 13 950 222) - (6/12/68)
   d. May Dong Fong - (A14 881 234)- (6/13/68)
   e. Chin Moy - (A 14 818 430) - 6/13/68)
   f. Dow Yin Kong - (A14 828 723) - 6/13/68)
   g. Dow Gam Woon - (A14 354 756) - 6/14/68
   h. Dow Gam Fon - (A14 354 754) - 6/14/68
   i. Lee Bock Hing - (A17 538 129) - 6/13/68
   j. Chang Ah Luck - (A11 599 789) - 6/19/68
   k. Chin Gan Nin - (AA-31821) - 6/19/68
   l. Chong Min Fong - (A13 886 822) - 6/19/68

2. Marriage Bonafides/Fraud Cases. (All assigned 3/14/--15--68):

   a. Herman Atkinson - (A17 559 621). Referred by American Consul, Toronto - Thirty hours.
   b. Lloyd Moore - (A 14 903 739). Requested by Central Office, State Department, and American Consul, Toronto. Thirty hours. Report to be submitted to Central Office and to Northeast Regional Office. (See attached memorandum -

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Central Office 1109.206).

c. Eric Giscombe - (A13 360 851). Referred by American Consul, Halifax, Canada - Forty hours.

d. Radi Isa - (A17 570 103) - Subject, male Jordanian, was divorced three days after his visa was issued, and three days before his departure from Jordan. Married lawful permanent resident of the United States, twenty days after his arrival here. Current spouse is nineteen years older than Subject. Assigned date: 7/8/68.

e. Abdel Ali - (A 17 565 160) - Married PuertoRican nine years his senior, said spouse having four children out of wedlock, two each by different men. Had lived with one of these men and had possibly been married. May require investigation in Puerto Rico. 6/26/68.

f. Saad-Ed-Dumaq - (A 17 583 621) - Was divorced in Jordan twelve days after visa was issued, entered U. S. as transit passenger and married Puerto-Rican female, thirteen years younger than himself. 5/28/68.

3. Character Investigations:

a. Edgar Coronado - (A12 730 021) - Applicant for naturalization - entertainer, appearing in current Broadway show, suspected homosexual. 6/19/68.

b. Szejwa Szarf - (A12 348 116) - Applicant for naturalization, arrested for petty larceny. Assigned 5/28/68.

c. Jonathan West - (A 12 735 202)- Naturalization - arrested for felonious assault, Assigned: 5/28/68.

d. Arthur Allan - (A11 096 462) - Naturalization - arrested for felonious assault, Assigned: 5/28/68.

e. Walter Chin - (A 14 851 706)- Suspension of deportation- confessed false claim to United States citizenship - Congressional interest. 5/9/68.

f. Constantina Chiplicos - (A 13 854 880) - Naturalization - United States Citizen spouse, thirty years older - States it is a fraudulent marriage which Subject promoted to attain permanent residence in the United States - could result in rescission of permanent residence and deportation. Assigned: 6/3/68.

4. Waiver of Excludability: (Thirty hours).

a. Francisco Herrera - (A11 578 021) - Requested by Assistant District Director for Travel Control at Miami - Subject served nine months in prison for entering U.S. as stowaway. Prior waiver application denied; posted in Service Lookout Book. 6/3/68.

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b. Ernest Azor - (A14 855 962) - Requested by Immigrant Inspector in Charge at Montreal; had secured diplomatic visa by making false statement. 6/5/68.

c. Suzie Azor - (A 14 855 963) - (see Ernest Azor, above).

d. Eulah Ferguson - (A14 863 599) - Secured nonimmigrant visa by fraud. Requested by Assistant District Director for Travel Control at Miami. 6/20/68.

e. Antonino Pizzo - (A 11 836 930) - Previous deportee; Prosecuted as stowaway, and for illegal entry; sentences of one year and $500, and six months, suspended. Excludable for deportation and for having sought nonimmigrant visa by fraud inasmuch as he denied ever having been deported. Requested by Officer-in-Charge, Palermo, Italy; 7/17/68.

5. Miscellaneous Investigations:

(possible visa fraud -State Dept. Interest)

a. Berk Trade School - (NYC - N-214-f.2-58). 5/13/68. (Six hours).

b. Karim Borihani - (A14 323 509) - Mental case. 5/21/68.

c. Ernesto Jurado -(A12 771 668) -FBI interest - Did not report for physical examination for, or induction into, military service; had left country shortly before date he was required to appear for his physical examination; when he later advised his Local Board of his new address, they ordered him to report, to which he replied that he was again leaving the country; now over current draft age, but purpose of investigation is to establish if he was out of the United States for over one year; he is posted in the Service Lookout Book as being excludable for having left the country to avoid military service. said posting will seek to bar his reentry; 8/2/67. (20 hours).

H. Conclusion: -

A recapitulation of the time devoted to the foregoing cases reveals a total of approximately 1929 hours, with 1301 of these hours expended during the period January 1, 1967 to July 31, 1968. Total work hours for this period (3654) when reduced by annual, sick and administrative leave, training, supervisory assignments, and other non-investigatory functions, results in 2524 hours. From these figures it is quite evident that the preponderant amount of my time is devoted to investigations within the purview of the GS-12 position description in that they involve matters of a complex or delicate nature and have political, economic, international, security and

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social welfare implications. I believe that they reflect the level of competence and performance with which I execute my duties, which are carried out with the aforementioned criteria always serving as my standards in exploring the implications and ramifications of each case. Additionally, their scope - local, national, and overseas-- and the required close cooperation with other agencies, are indicative of their complex, multi-issue, and delicate nature.

In view of the foregoing, I believe that reclassification to General Investigator GS-12 is warranted.

Respectfully submitted,

Frank G. Costas

FRANK G. COSTAS,
Investigator,
United States Immigration and Naturalization Service

A-333

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PTE:SFrp

June 18, 1968

Mr. Martin R. Greenfield
94-06 34th Avenue
Jackson Heights, New York 11372

Dear Mr. Greenfield:

We are accepting your letter of June 5, 1968 as a classification appeal from you and 15 other investigators whose positions have been classified as General Investigator GS-1810-11 by the Immigration and Naturalization Service. We are writing to you because your name is the first one listed in the letter. Please inform your co-appellants of the contents of this letter.

To adjudicate your appeal we need the following information:

1. A summary of each case on which you worked during the last year which represents, in your opinion, higher grade level investigative work.

2. A statement of the reasons why you think the cases cited meet the criteria and standards for a higher grade.

3. The date when you were first assigned the case, and the date when you completed it.

4. The number of hours you devoted to the case during the time shown in Item 3 above.

If you were engaged in conspiracy or fraud cases did you develop them, or coordinate the assignments to other investigators, or prepare the cases for prosecution. If you were engaged in racketeer and subversive cases, please furnish us with specific information on the nature of your investigative work in those cases.

We will supplement this information by desk audits when we consider them necessary. It does not necessarily follow that every position will be audited. We must point out, too, that we do not arbitrate between your agency and you on how assignments should be made, and to

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whom GS-12 cases, if available, should be assigned.

The general rule in classifying positions which have a mixture of high and low grade duties is that those duties which take up at least a majority of the employee's time govern the classification. The fact that a GS-11 investigator is performing GS-12 work does not result in a GS-12 classification if the higher grade work occupies less than a majority of his time.

We would appreciate your cooperation and that of your [illegible] in furnishing the requested information by July [illegible], 1963.

Sincerely yours,

John A. Sutherland, Jr.
Chief, Evaluation Branch

c.c. Associate Commissioner, Management
U. S. Department of Justice
[illegible]
Washington, D. C. 20530

A-335

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June 5, 1968

Director, New York Region,
United States Civil Service Commission
220 East 42nd Street
New York, New York, 10017

Dear Sir:

We, the undersigned Investigators of the Immigration and Naturalization Service, New York District Office, hereby request a prompt audit of our positions. The duties and responsibilities inherent in our positions clearly warrant a finding that the present grade of GS-11 is not equitable, and that we should be reclassified to a higher grade. We request this audit both individually and collectively.

The undersigned are attached to the General Investigations Section of this office. Although the Commission has previously found that there is GS-12 work being performed in this section, the Immigration Service has taken no steps to correct what we believe to be an unfair situation. We therefore ask that you perform an on site audit of all our positions so that we can present our case to you for arbitration. An audit will establish that a substantial amount of work is being done in this section which is of the GS-12 level, and that there should be positions established at that grade level.

At the proper time, we are prepared to furnish you with more specific information as to the work each of us has performed over a given period of time so that you can make a definitive determination. In order to focus on what our work generally entails, the following is a partial list of the more frequently encountered types of investigation in this operating section:

Treaty Trader cases
School Approval cases
Sixth Preference Petitions
Naturalization Petitions
Waiver Cases
Orphan Adoptions
Revocation of Naturalization
Character Investigations (for a variety of reasons)
Exchange Student Programs
Iron Curtain Nationals
Physical Persecution Cases
Fraud Investigations
Renunciation of Citizenship Cases
Transit Without Visa Cases and Program

In the recent past, many officers in the Immigration Service have been

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reclassified upward to GS-12 on the basis of appeals filed with the Civil Service Commission. The Service itself has made a few such reclassifications on its own. Unfortunately, with few exceptions, such reclassifications have been restricted to those officers performing in a somewhat specialized field of operations, namely, subversive, criminal, frauds, and the like. Here at New York, not one officer in the General Investigations Section has won reclassification, although the Commission has already ruled in at least one case, that a certain amount of GS-12 work was being performed.

We find the failure of any reclassification action for officers in this section to be grossly inequitable. We refrained from lodging appeals with the Commission, feeling that corrective action would eventually be taken. Sixteen months have now elapsed since the first corrective reclassification actions came through in this Service and it appears that this audit, long overdue, must now be initiated to achieve the requisite reclassification warranted by ourpresent duties and responsibilities.

We cannot see how a section as large as this one, carrying the case-loads it does, (which surpass any other Immigration and Naturalization Service district in the United States) can be found to be operating with the proper grades when not one GS-12 investigator exists.

We urge that your office give prompt consideration to this audit and that the undersigned petitioners have their cases reviewed by means of on-site audits, and that the merits of our claims be discussed with each of the undersigned.

We are fully aware that in other offices of the Immigration and Naturalization Service, reclassifications were effected in the so-called "General Investigations" sections because a certain amount of GS-12 work was present and that a given amount of GS-12 positions must be available to do such work. We are entitled to similar consideration here in New York. It is not acceptable for the establishment to assume that despite this being the largest office in the country in terms of case-loads, that there is no GS-12 level work here. We can not accept such an arbitrary position and to this end we urge your prompt action on this matter. We are ready to provide you with more specific information to document our case. We would welcome the opportunity to have a delegation meet with your representative at any time for the purpose of an oral presentation of our just claim.

Copies of this letter are being forwarded to Members of Congress representing the undersigned, as a matter of courtesy.

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Yours truly,

MARTIN R. GREENFIELD
94-06 34th Avenue
Jackson Heights, New York, 11372

cc: Hon. James J. Delaney

ARTHUR OPOLION
137-74 Francis Lewis Boulevard,
Laurelton, New York, 11413

cc: Hon. Joseph P. Addabbo

FRANK G. COSTAS
44-74 21st Street
Long Island City, New York, 11101

cc: Hon. James J. Delaney

JOHN F. MARTIN
21 Cloverdale Avenue
Staten Island, New York, 10308

cc: Hon. John M. Murphy

SOL H. SALETRA
1760 Andrews Avenue
Bronx, New York, 10453

cc: Hon. Jonathan B. Bingham

ALLAN MURRAY
600 Hylan Boulevard
Staten Island, New York

cc: Hon. John M. Murphy

JOHN G. McKENZIE
9602 4th Avenue, Apt. 1-C,
Brooklyn, New York, 11209

cc: Hon. John M. Murphy

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ROBERT WIDENHORN
Crest Drive
Briarcliff Manor, New York

cc: Hon. Richard Laurence Ottinger

KNUTE H. LEGERNES
71 Second Street
Fanwood, New Jersey, 07023

cc: Hon. Florence P. Dwyer

LEON FISCHER
137-45 68th Drive
Flushing, New York, 11367

cc: Hon. Benjamin S. Rosenthal

NORMAN H. HENRY
43 Christine Lane
Tappan, New York, 10983

cc: Hon. John Goodenid Dow

SYDNEY HARON
99-04 57th Avenue
Corona, New York, 11368

cc: Hon. Benjamin S. Rosenthal

THEODORE HOOT
3690 Condor Road
Levittown, New York

cc: Hon. John W. Wydler

PETER PAUL MASSIMINO
38-07 21st Avenue
Long Island City, New York, 11105

cc: Hon. James J. Delaney

JAMES H. GENNETTI
32-47 70th Street
Jackson Heights, New York, 11370

cc: Hon. James J. Delaney

June 5, 1968

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Alexander Flasterstein

ALEXANDER FLASTERSTEIN
231 Echo Place
Bronx, New York, 10457.

cc: Hon. Joseph Scheur

Arnes, Joseph

Reassigned from Search & Examination Section to Investigation on June 17, 1916
Mr. D'Andrea claims:

500 hours - June 6 to 13, 1916 - [illegible]
100 hours - on Senate [illegible]
400 hours - on H.R. [illegible]

In his letter, February 15, 1917 [illegible]

The Section Supervisor [illegible]

Mr. Fenimore [illegible]

Findings: [illegible]

Beller, Benjamin — Fraud and Prevention

510 hours	C 6810139 } A 6328902 }	Atty K case - (see additional 30. hours expended on this) also engaged in investigation for attorney (also has spent 70% of time in 1967 on 300 cases within area)
240 hours	A 14795 265	Aparro, Ti - a forged document case
150 hours	NYC 50/76	National Franchise Student Area
900 hours		

Mr. Friedman said the above cases might be evaluated at the GS-12 level. He felt this was a strong borderline case. Considering that the first case, the major case, has continued to occupy 70% of the investigator's time in 1967, this position seems to fully warrant GS-12.

Finding: A preponderance of time is devoted to work of GS-12 level.

Bartele, Edward — Special Investigations – C

585 hours — Nebbia, Lucarotti, Doubrat
116 — Sollazzo
12 — G. Popper
713

Mr. Hayden says he found no solid GS-12 work, He views this as a good GS-11 position. He was not impressed by the Nebbia-Lucarotti-Doubrat case.

Mr. Fri[illegible] a letter of May 29 furnished highlights for several of Mr. Bartele's cases. As described, it is possible that the major cases above cited, that required 585 hours work is of GS-12 level.

On the basis of available information there is nothing to support a finding that Mr. Bartele was concerned with even working GS-12 level for a preponderance of time. A liberal evaluation would credit him with 700+ hours at the GS-12 level,

Finding: A preponderance of time was not spent on work of GS-12 G[illegible]

Mr. Burke's time principally is devoted to consideration of about 650 "non-priority" cases requiring annual review. He also reviews the cases of all aliens in the New York District reported mentally ill, in order to recommend either deportation proceedings or placing the cases in the "non-priority" category.

A "non-priority" case is one in which an alien is deemed deportable but, for certain reasons, deportation is not sought to be effected. Mr. Burke reviews those cases giving consideration to compassionate factors. A principal consideration in reaching a decision is the familial relationship - would the spouse be hurt if the mate were deported? Annually, each "non-priority" case is reviewed for possible change of status. Generally, the parties concerned are asked to come to the office for an interview.

Mr. Burke makes his recommendation, through his supervisor, Mr. Keenan, who approves but does not sign the recommendation, to the District Director. The District Director in turn makes his recommendation to the Regional Commissioner who further recommends action to the Central Office Committee on "non-priority" cases which makes the final decision.

Mr. Burke when acting in the absence of his supervisor, Mr. Keenan, Assistant Chief, GS-12, assumes responsibility identical with that normally exercised by Mr. Keenan. It is estimated that Mr. Burke serves as acting Assistant Chief for about 14% of the time.

Mr. Burke assumes the full responsibility of the Koerber position (liaison with U.S. Attorney's offices) in the absence of Mr. Koerber. Mr. Burke also assumes part of Mr. Koerber's workload when he is overburdened. Mr. Koerber is one of those currently appealing for grade GS-12.

Mr. Burke also substitutes for Mr. Louis Totavo, GS-11, during his absence. This involves, among other duties, the issuance of all Orders to Show Cause and Warrants of Arrest in the New York District.

Mr. Burke states that prior to his assignment to this position, a GS-12 officer had done the work. Mr. Friedman viewed the "non-priority" case work as being nowhere near the GS-12 level. He also considered the Koerber position, which Mr. Burke fills during the absence of the regular incumbent, to be of GS-11 level. Hence, he found no basis for evaluating Mr. Burke's position above grade GS-11.

In the absence of directly applicable standards, reference is made, for the purpose of evaluation, to the published standards for the Passport and Visa Examining Series GS-967. "This series includes positions the duties of which are to administer, advise on, supervise, or perform

quasi-legal work involved in the review, evaluation, and examination of applications for United States passports and for other privileges and services that involve citizenship determinations; and/or applications for United States visas and for other privileges and services that involve determinations of aliens fitness for admission to this country." While examiners may finally authorize the approval of cases, they do not have the authority to deny, but must recommend such action to higher authority based on a brief of the case and discussion of the applicable law.

At the grade GS-11 level of the GS-967 Series in making citizenship determinations, "adjudicate this unusual, novel, and atypical cases where precedents are absent or are not clearly established." They also may "adjudicate reconsideration requests from an adverse decision made at a lower level; adjudicate first-stage administrative appeals and recommend submission to the Board of Review or the action to be taken at the Division level."

A determination that an individual has lost his citizenship, perhaps making him a "man without a country," is considered to be no less serious in its effect on the individual than a finding that deportation is called for. Therefore, by comparison with the standards for the Passport and Visa Examining Series, the duties and responsibilities of the position occupied by Mr. Burke are found to compare favorably with, and not to exceed, the level of difficulty and responsibility set forth at the grade GS-11 level of the GS-967 Series. Accordingly, the position occupied by Vincent Burke is evaluated at the grade GS-11 level.

Frauds and Prosecutions

Farrell, Joseph

Reassigned from Genl Investigations on June 1966.

5.76 hours - survey and review of non-petitioned - indemnities
18.4 hours - Washington Research Institute.
? hours - west Indian marriage fraud case.

Mr. Farrell makes no reference to any cases of possible GS-12 level he may have been assigned on Genl Investigations from Jan - June 1966. The Washington Research Institute investigations, still pending, does not have the earmarks of a grade GS-12 case at this point. Marriage fraud case may get an upgrade if it develops - not known at this time.

The bulk of time (57½ hours) was devoted to handling telephone leads (and referring cases for follow up to other investigators if [illegible] was indicated), collating information that was furnished him and preparing a report. Responsibility limited because all cases initially were screened by supervisors to identify cases that needed outside investigation and those that could be handled by phone.

Finding: Mr Farrell makes no claim to GS-12 level assignments Jan - June '66 while in Genl. Investigations. His largest block of time 5.76 hours (Oct - Dec.) is devoted to following up on leads by telephone, collating information furnished by field investigators and preparing a report on [illegible] investigations. The kind of work described does not reach the GS-12 level. Individual cases assigned to him do not reach the GS-12 level. The difference [illegible]

Jan - June 6% Oct - Dec 94% makes GS 12 level work

6

Fass, Sidney — Special Investigations - Subversive

100 hours - Chinese Hand Laundry Alliance
100 — Socialist Workers Party
500 - H. Ryan
300 - Im Cheng
175 - Hapenski
1175 hours

} organizational compilations

Mr. Hoyles (sp?) notes, Mr. Fass at the top of those he interviewed (7 investigators) & the recommended one for GS-12, Mr. Fass was next strongest.

The supervisor says the Ryan case involved tremendous publicity, Congressional interest — problems of determining who was to be interviewed abroad, collecting documents, etc. to establish war criminal activities during WW II.

Im Cheng - a Chinese woman with friends in high circles - sensitive case because of these connections.

Finding: A preponderance of time is spent on work of GS-12 level.

Guglielmo, Philip — Special Investigations, Subversive LA Squad

Mr. Guglielmo is assigned to Special Investigations, Subversive Unit, Latin American Squad. His first line supervisor is Mr. Weinman and Mr. Lambert, Chief, Special Investigations, is the second line supervisor.

Mr. Guglielmo, because he is concerned about violating security regulations, has not highlighted individual cases. He has, however, described the characteristics of categories of cases. In nature, the cases he describes are similar to those of other investigators in the LA Squad. He has been assigned some of the sensitive surveillance cases as have all other members of the LA Squad. Mr. Weinman stated that all investigators in the LA Squad were assigned similar cases since he assigns cases based on geographical location and the caseload carried by the investigators.

Mr. Lambert, Chief of Special Investigations, ranks Mr. Guglielmo third among the five appellants. His first line supervisor, Mr. Weinman, ranks him third or fourth, but said he "wouldn't hesitate picking him for any case." He did not recommend Mr. Guglielmo for an "O" rating this year since he had been ill two months and could not be rated for a full twelve month period. Mr. Weinman said for the ten months he did work, he did well. Mr. Weinman has recommended only one other investigator for an "O" rating (Mr. Ford, reclassified to GS-12).

Available information indicates that Mr. Guglielmo is assigned cases similar in nature of difficulty and responsibility to those assigned other appellants being proposed for reclassification to grade GS-12 (i.e., Joseph Judge, Robert Wilson). Accordingly, Mr. Guglielmo's position is considered to have a good basis for reclassification to the GS-12 level.

Judge Joseph

Special Investigations - Subversive

1

2 A

60 hours	Case 1		65 hours	Case 21	
50 "	Case 2	assistance	20 "	Case 19	
70 "	Case 3	and	60 "	Case 15	
70 "	Case 4	guidance	145		
50 "	Case 5				
50 "	Case 6				
40 "	Case 7				
45 "	Case 8				
20 "	Case 9				
35 "	Case 11				
80 "	Case 17				
20 "	Case 20				
30 "	Case 22				
45 "	Case 25				
70 "	Case 27				
30 "	Case 30				
765					

765 hours
145 hours
910 hours - a preponderance of time

Mr. Schiesinger was much impressed by Mr. Judge's, but he found it difficult to identify these cases with the GS-12 level. Mr. Friedman considered this a strong job

Mr Judge is concerned with important figures in the Cuban and Dominican revolutionary movements. The recommendations for our S.S.P. April 1, 1965 - March 31, 1966 by his supervisor Mr Weinman states he is the second highest producer in the unit; "This record, coupled with the fact that only the more difficult cases are assigned to him, is truly a commendable feat." Mr. Lambert rated Mr Judge as the strongest among the appellants of the L.A. Squad.

Finding: A preponderance of time is spent on work at the GS-12 level.

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Kerzejewski, Edward — Special Investigations Case

Multiple Investigations
219 hours – Jamaican Marijuana Ring
70 hours – (time prorated for 2-3 months on 1/3 for 5th) – W.A. Jackson Case – 14 days
120 hours Nassau County Vice Ring

Interpol
60 hours Buenos Aires (prorated 2 months on '61)
165 hours Magaldi Case (Major Chief Seelig)
30 hours Government (prorated time)

Domestic Case Work
40 hours Bodenheimer
35 hours Nixon
20 hours Sorkin

Other Top Level Work
281 hours Sorkin *

1043 hours – a proportionate amount of time

Mr. Friedman considered this to be a borderline case. He considered the job was strengthened because of the liaison work with Nassau and Suffolk Counties.

The Chief Special Investigations characterized the Sorkin case as one of the biggest cases – an A.G. Major figure – Kerzejewski "did a fine job" got with the evidence needed in the case.

Finding: A preponderance of time is devoted to work of C.S.I. level

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Koerber, William

Frauds and Prosecutions

In the New York District Office management has determined that the liaison work with the U. S. Attorneys for the Eastern and Southern judicial districts of New York is sufficient to require the full time services of one investigator. Mr. Koerber has been assigned to carry on this liaison work.

Mr. Koerber, in his letter of April 26, describes his work. In brief:

- by delegation from the District Director Mr. Koerber is empowered to apply the discretionary waiver authority delegated by the United States Attorneys' offices. Mr. Koerber can apply this discretionary waiver authority, or can refer the case for prosecution, in the instance of first offenders who commit specified violations, e.g., entry as a stowaway.

- Mr. Koerber reviews investigation reports recommending prosecution for accuracy as to violations cited, venue is properly placed, sufficiency and admissibility of evidence, clarity and completeness. He refers reports that do not meet criteria back to the operating section concerned for further development.

- in cases where the Service is urging prosecution and the United States Attorney has an opposing view, Mr. Koerber attempts to reconcile the difference. If time does not permit referral of the case to the District Office, Mr. Koerber is authorized to reach a final decision on all matters, including complex cases.

- Mr. Koerber reviews all cases coming out of the Search Unit where a criminal violation is apparent and decides, based upon merits of the case, to urge prosecution or to seek a declination of prosecution. If prosecution is authorized, he prepares the prosecution report and is present at arraignments, hearings, and in court during trial.

- Mr. Koerber, in every control case where a prosecutive opinion is being sought based on an apparent violation of the Immigration and Naturalization Laws, thoroughly reviews the case for applicable provision of law, venue, sufficiency of evidence, need for further investigation,

determination of the issues, and other factors. In these cases of grave consequence, Mr. Koerber confers with the section chief or his assistant to determine his views and opinions and to resolve differences prior to discussing the matter with the U. S. Attorney.

- In the development of cases, investigators seek Mr. Koerber's advice concerning problems of venue, jurisdiction, sufficiency of evidence, admissibility of evidence, etc.

- Mr. Koerber also furnishes information bearing on Service policies, precedent cases, and related information in response to requests from United States Attorneys.

- Mr. Koerber suggests policy in prosecution matters. His suggestions have resulted in more meaningful sentences being imposed by the Court.

According to Mr. Spivak, GS-13, Chief of Frauds and Prosecutions, Mr. Koerber is consulted by almost everyone in Investigations. The U. S. Attorney is said to rely heavily on Mr. Koerber's opinion regarding where criminality lies and if there is sufficiency of evidence to prosecute. Mr. Koerber suggested a guide to be followed by the Court in levying fines in lieu of a prison sentence, with the income of the convicted person used as a guage for size of fine. Mr. Spivak considers Mr. Koerber to be "one of the most astute investigators we have and (one) who has done a great job." Mr. Koerber's first line supervisor, Mr. Keenan, speaks highly of his capability and the fine relationships he has established and maintains with the U. S. Attorney's Offices.

There is general agreement that the bulk of the cases brought to Mr. Koerber arise in Search, and he writes the report on each Search case that is sent to the U. S. Attorney. In his letter of April 26, Mr. Koerber states that except in rare instances all cases sent to the U. S. Attorney go through him. On this point, there is an apparent difference of opinion. Mr. Keenan noted that in the larger fraud cases, while reports are sent through Mr. Koerber, he is not authorized to change these reports which have been signed by a Chief. He may suggest the need for change. Mr. Spivak, Chief of Frauds and Prosecutions, said that the investigators in F&P are so familiar with the various charges it wouldn't be a common thing to check with Mr. Koerber. He emphasized this would not hold true for other sections--Search brings all cases to him, and the other sections do so quite regularly. Mr. Spivak said it is possible for a F&P case to be completely prepared by the investigator and Mr. Koerber would not get into the matter at all (unless requested by the U. S. Attorney to contact the Investigator to secure information).

Mr. Friedman observed that most of Mr. Koerber's liaison duties were in connection with cases of GS-9 level, and while Mr. Koerber was very capable, he did not evaluate the liaison work as of a most difficult nature. Mr. Friedman said he had made a point of asking the Investigators he interviewed about their contacts with the U. S. Attorney. A number of Investigators engaged in work on the more complex cases evaluated at the GS-12 level said they dealt directly with the U. S. Attorney and not through Mr. Koerber. While a memorandum of 3/10/66 from the Assistant Chief, Investigations, Mr. Wroblewski, said that requests for prosecution opinions from the U. S. Attorney must be referred to Mr. Koerber, Mr. Friedman found in practice that in individual conspiracy cases, the Investigators bypass Mr. Koerber. However, in developing the case, the U. S. Attorney will call Mr. Koerber to ask what the Service policy or position is.

Mr. Koerber is recognized by his supervisors as an outstanding person, well equipped by background and temperament to handle the delicate liaison between the New York District Office and the U. S. Attorney's Offices. The larger part of his work is concerned with case work of GS-9 calibre from Search. He does provide advice and assistance to Investigators of higher grade, and is recognized as having high competence in his specialized area. Supervisors believe that the job owes much to Mr. Koerber's ability and that he has made an impact on it--for example, the influence he has exercised on sentences handed down by the Court.

This position in terms of duties and responsibilities is considered to be a solid GS-11. It is possible that the incumbent has made a personal contribution that enhances the value of the position.

A copy of a new position description for the GS-12 level (see copy attached to Mr. Foerster's letter) identifies the liaison function as a GS-12 level assignment. In this connection, see note below.

NOTE: This position is not allocable to the General Investigating Series GS-1810, by exclusion 2 of the INS Supplement to the basic standard. The position is allocable to the Legal Assistance Series GS-954.

Special Investigations

Lazzaro, Frederick

A 7401 216	400 hours	Anastasia, A.*	
A 6896 666	100 hours	Abbinni, A.P.	(narcotics - a leading
A 4305 607	300 hours	Scarpa, P.*	(gang for him - transferred
A 7972 705	100 hours	Strigler, H.	(until ... smuggling ring - ...
	900 hours		

" plus the matters and cases N noted

* well known criminal figures for ...

See Mr. Friedman's discussion of these cases in his memo of Dec. ...
Mr. Friedman characterized the Scarpa case as "a big one, a tough ...
He also considered the Strigler case to be strong. The Strigler case, Mr. ... said was "another top one." Mr. Friedman felt weight the Anastasia ... but they came to said not much had been done on it. Mr. Friedman ... this position to be borderline but couldn't establish a preponderance of ... working GS-12 level

The supervisor (Special Investigations - CIA) characterized the difficulty involved in these cases as stemming largely from the reluctance of ... to give information concerning these well known criminals. Supervisor characterized the Anastasia case as difficult and said it had ... a good bit of time & involved a trip to Seattle. Mr. Yoh's to develop ...

Finding: A preponderance of time was spent on work of GS-12

Reilly, John P. Special Investigations--Subversive

Mr. Reilly is assigned to the Subversive group of Special Investigations. His first line supervisor is Mr. Graziano, GS-12, who heads one of the two units making up the Subversive group. Mr. Lambert, GS-13, who heads Special Investigations is the second line supervisor.

Mr. Hayden found Mr. Reilly's work to be pretty well mixed, "some good stuff, some grade GS-9."

Mr. Lambert, the second line supervisor, said Mr. Reilly has built up a knowledge of Greek maritime unions and is a specialist in the more difficult Greek communist cases. Mr. Graziano, the first line supervisor, also stated that Mr. Reilly is the one called upon to handle Greek cases, although he wouldn't identify him as a "specialist," since Mr. Graziano did not recognize any "specialists" among the men in his unit. Mr. Graziano attested to the difficulty and sensitivity of a sample of the cases submitted by Mr. Reilly. A recommendation for an SSP for the period April 1965 - March 31, 1966, initiated by Mr. Graziano, states: "Investigator Reilly was assigned some of the more difficult and complex deportation and revocation investigations."

Evaluation of the material submitted by Mr. Reilly identifies 670+ hours on an organizational compilation study and case work of GS-12 caliber. Another 200 hours was devoted to investigation and liaison activities in connection with Greek seamen's unions and members thereof. This work might be considered equivalent to the preparation of organizational compilation studies. It involves keeping abreast of the rapidly changing subversive unions which, as soon as outlawed by the Greek Government, pop up in another guise.

Liberally crediting the time devoted to Greek seamen's activities brings the time devoted to work of GS-12 calibre very close to the borderline--870 hours.

Reilly, John P. Special Investigations - Subversive

300 hours	-	Kast Teleprinter - organizational compilation
70	-	A17 274 283
30	-	A14 783 859
100	-	A12 040 478 - Greek Students
550 hours		
30	-	C6709 331
40		A 463 22-1
50		A 12 265 053
120 hours		
200		Special Greek matters (investigation, liaison)
570 hours		

by the first line supervisor
A recommendation for SSP for period April 1965 - March 31, 1966 states: "Investigator Reilly was assigned some of the more difficult and complex deportation and revocation investigations."

Mr Reilly is the "specialist" in liaisons with the Greek Seamen Unions and maintains contact with subversives on maritime work who keep up their role thru constantly changing organizations. He has developed background information on these organizations and investigated members.

Finding: This case is so close to the borderline that another case might turn the decision. Disagreed to view that as a GS-12 position.

Rowland, James J. Special Investigations - Subversives Latin-American

Mr. Rowland is assigned to the Subversive group, Latin-American Squad, Special Investigations. Mr. Weinman, GS-12, is the first line supervisor. Mr. Lambert, GS-13, is the second line supervisor. There are six GS-11 Investigators in the Latin-American Squad. Five have appealed. The sixth man reaches mandatory retirement age within a year. Three squad members have been reclassified to grade GS-12.

Mr. Scheinenn was not too impressed with Mr. Rowland's work. He didn't consider the subveillance of sensitive subversives to be especially difficult.

Mr. Weinman, the first line supervisor, said the sample of cases I checked with him were not overstatements of the position or influence exercised by the subjects. Mr. Weinman considered this position to be on a parity with that of Mr. D'Vito which was reclassified to GS-12. Mr. Rowland and Mr. D'Vito regularly work as partners in the tough Latin-American neighborhoods of the city. Mr. Weinman says he has given the two men almost identical cases and sees no difference except that one man may have presented his story with more clarity. Mr. Friedman says the reclassification of the D'Vito position was based on his being credited with the control of a difficult case that took a large percentage of time.

Mr. Weinman ranked Mr. Rowland as either 3rd or 4th among the five appellants. Mr. Lambert ranked Mr. Rowland 4th.

Evaluation of the cases submitted by Mr. Rowland shows that about 830 hours were devoted to work of GS-12 calibre, and an additional 85 hours were devoted to work that approaches, if indeed it does not meet, the GS-12 level. Overall, the position involves work of GS-12 level for an amount of time that closely approaches, and possibly exceeds, the preponderance of time criterion.

Spread in ~~Stylistic~~ Sentence 20

Kind, James J,

25 hours Cases 2*
10 " Cases 3, 4, 5 ✓

35 " Case 8 *
75 " Case 9 ✓ *
70 " Case 10 ✓ *
25 " Case 11
70 " Cases 12 ✓ *
70 " Case 17 ✓
85 " Case 18 ✓ *
8 " Cases 19, 20 ✓ *
65 " Cases 23-90 *

630
35 Case 13
5 Case 6
915 hours

* key figures or "good cases" per report - complex

According to the supervisor the complex cases that were checked with a ~~first line~~ were not ~~re~~statements of the position or influences exercised by the subjects. The supervisor claims this position is equivalent to that of Mr. D'Vito, reclassified to GS 12. Mr. Rowland & D'Vito regularly work in partners on the tough DLA neighborhoods of New York. Mr Friedman said the D'Vito reclassification was based on a large percentage of time devoted to a difficult case. The supervisor says he has given the two men almost identical cases so that ~~they~~ ~~might~~ ~~be~~ ~~more~~ presented in story with more clarity.

Finding: This position involved work of GS-12 level for an amount of time that approached, and possibly met, the fundamental criterion of GS-12.

Stowe, Frank E. Frauds and Prosecutions

Mr. Stowe is assigned to Frauds and Prosecutions. His first line supervisor is Mr. Germain, and Mr. Spivack, Chief of Frauds and Prosecutions, is his second line supervisor.

Mr. Friedman believed that this position might be borderline. Although he considered the marriage fraud ring to be a good case, he did not find that a preponderance of time was spent on work of GS-12 level.

Mr. Spivack said that Mr. Rowe, from a few leads, developed the existence of a marriage fraud ring and developed the cases. He said the most difficult thing in developing this case was to conclusively link the attorney to the ring operation through solid evidence.

Although Mr. Stowe spent about 750 hours on this marriage fraud ring case (GS-12 calibre) in 1966, the case has continued into 1967 for a total of 850 hours. Mr. Stowe also is working on another marriage fraud ring case which is said to have the "earmarks" of another big case, although it still is in the early stages of development. He has spent 85 hours on this case. Close to the borderline on time, and possibly somewhat over, this position is viewed as of GS-12 level.

Stone, Frank F. Franklin and Bronx Counties

480 hours - Working the tract of Pigeon Pea and Sesame / Scraped land
270 hours - Weeding time was spent digging for diamonds / Planting of
750 hours
85 hours - Final Goal
835 hours

The Mag, Franklin and Bronx Counties crops Mr Stone grew successfully developed the experience of managing, funding, and developed the crops. The difficult thing was to emotionally shield the attorney to manage personal things while considered.

Mr Stone expended 850 hours on the managing fund crop in 1960-61 pieces 85 hours on another crop (Pharos) that ended 85 hours the remarks of developing into another managing types crop.

1960-61
850 hours
85
935 hours - on paper completion

Finding: Mr Stone expend 750 hours in 1960 on case work of 65-12 land. The major case that continued into three years for a total of 850 hours. He has written case that may develop into a managing trust plan. Although there be deficiencies on these, overall the positive remarks of 65-12 land.

Mr. Villanova claims, and his first line supervisor (Mr. Kiley) affirms, that the position was established as a grade GS-12 in July 1961, and that he has been operating in the capacity described in that position description since February 1964. Prior to this, Mr. Villanova had served as "backup" to Mr. Germain, the incumbent of the GS-12 position. When Mr. Germain was reassigned, Mr. Villanova succeeded to his duties. Originally, the GS-12 position was organizationally identified as position at Regional Office level although it was physically located in the New York District Office. On July 1, 1963, the position was transferred to the New York District Office. In February 1964, with the reassignment of Mr. Germain, Mr. Villanova moved into the position. According to Mr. Kiley, Villanova is "performing the identical job" that Mr. Germain held. However, Mr. Kiley said that both Mr. Germain and Mr. Villanova received a lot more supervision when the position moved from regional to district office level.

Mr. Friedman was not impressed with this position; he considers it to be allocable to the grade GS-9 level. The position, however, was identified in the letter of decision as a GS-11 position.

The position occupied by Mr. Villanova as Marine Intelligence Officer has several functions:

Marine Intelligence - Involves the receipt, analysis, evaluation, compilation, dissemination, and coordination of marine intelligence on a national basis (e.g., crewman deserters, alien smuggling, stowaways, and general waterfront and marine intelligence). Five reports are prepared on a monthly, quarterly or semi-annual basis.

Crewman Control - Crewman Informant Development Program Developing and maintaining liaison with and keeping records on informants among alien crewmen who arrive in the United States on foreign vessels.

Search - Apprehension of crewmen deserters and alien stowaways - "bringing in the bodies."

Liaison - Develops and maintains liaison with shipping interests - masters, shipping company officials, and other maritime groups.

Training Officer - Is one of the experienced officers who help train new investigators in apprehension and arrest.

Alien Address Report Publicity Program - Contacts with television and radio networks to secure publicity - main function from November-February.

The marine intelligence reports prepared by Mr. Villanova are not impressive in content (judging from the monthly summary I looked at and Mr. Friedman's description of the reports). However, this is but one part of the total job. His liaison activities are significant in keeping contacts open with shipping interests-masters, shipping company officers, etc.

Page 6, of his letter of April 27, notes that through bringing trends and patterns to attention, within the last 18 months steps have been taken to combat the rising number of desertions of Greek and Chinese crewmen. He says he has been able to convince U.S. Attorneys to institute a stepped up program of prosecution of willful crewman deserters with the result that the number of prosecutions and convictions has increased to a striking extent.

Villanova is considered a crackerjack for this job with the "meet and deal" ability that enables him to develop and maintain intelligence sources, and secure radio and TV coverage for the Alien address program.

Viewing the job overall, it certainly is well worth grade GS-11.

As an atypical position this may have some claim to grade GS-12 in consideration of the nature of the personal contact and liaison aspects of the job. It is also noted that the predecessor of Mr. Villanova was occupying a job classified in grade GS-12.

Watson, Robert A. — Special Investigations - Internal Affairs

160 hours – Case 1
120 " – Case 2
80 " – Case 3
80 " – Case 4
60 " – Case 7
160 " – Case 10-11
110 " – Case 12
130 " – Case 13-14
70 " – Case 17-18

} Per memo of 5/11/67. Watson estimates 600 hours on these cases.

970 hours – a preponderance of time.
plus others –

Finding: A preponderance of time is spent on cases of 61-12 level.

GS-12 | Barbadoro | GS-11

Special Security Staff

CIA

Karageorgeou, Edward | Bernard, Francis GS-11-12 (529 hours / 6 mos 67; 1,000 hours planned for future) | Billard, Ellsworth

Lazarus, Jack | Ricciardi, Jack GS-11-12 | Sena, Joseph

Swift, Earl

Bartoli, Edward

Subversive 1

Foss, Sidney | Mason, Sidney GS-12 | Bailey, John P. GS-11-12

Subversive 2 LA Squad

Judge, Joseph | Bouchard, James GS-12 (900 hours?- 1/2 of a person)

Wilson, Robert | Guglielmo, Philip GS-12

Number 8 Prosecutions

Group 1

Stowe, Frank GS-12 (1966-835 hours - 1965-67 - 900 hrs) | D'Amico, Joseph

Group 2

Bell, Benjamin | Farrell, Joseph

24 | [illegible] GS-11-12 | [illegible]

GS-12	Bordelon	GS-11
General Investigations		Flusterstein, Alex
Search	Villanova, S. GS-11	Hopkins, Frank

GS-12

Biller, Benjamin
Farm, Sidney
Judge, Joseph
Kevorkijian, Edward
Lazarus, Jack
Wilson, Robert

Borderline or below

Bernier, Frank	GS-12?	490 hours in '65 exp hours in 65-67
Mason, Sidney	GS-12	600+ in 65 900+ in 65-67
Reilly, John P.	GS-11-12	800+ hours
Rezendes, Jack	GS-11-12?	650+ hours
Rowland, James	GS-12	800+ hours 835 hours in 66
Stowe, Frank	GS-12	900+ in 65-67
Burke, V.	GS-11 - appeal	
Hughes, W.	GS-11-12 - appeal	
Silvera, S.	GS-11 appeal	
[illegible], P.	GS-12	

Appointment with the GS-967
Does standard have to be met at GS-11

GS-11

Bettis, Edward
Bellard, Elsworth
O'Brien, Joseph
Powell, Joseph

A-366

OCT 9 - 1968

PERSONAL
Mr. Joseph D'Amico
U. S. Immigration and
Naturalization Service
Department of Justice
20 West Broadway
New York, New York 10007

Dear Mr. D'Amico:

We have completed our review of the requests submitted by you and Mr. Peter Scaglione for reopening and reconsideration of your position classification appeals which were denied by our New York Region. A careful review of the files on those appeals disclosed no evidence of failure on the part of our Region to consider all material information and no indication of a clearly erroneous decision in the Region's decisions.

Accordingly, we are now adopting those orders and the decisions of our New York Region as the final decisions of the Civil Service Commission on your appeals.

Sincerely yours,

John D. Glasheen
Chief, Classification
Appeals Office

cc: Mr. Peter Scaglione

Mr. E. A. Loughran
Associate Commissioner, Management
INS, Department of Justice
Washington, D. C. 20536

Director, New York Region
U. S. Civil Service Commission

ICA:JDGlasheen:hvc 10-9-68

GOV'T EXHIBIT D

2

A-367

AUG - 5 1968

Personal
Mr. Joseph D'Alessio
U. S. Immigration and Naturalization Service
Department of Justice
[illegible]
New York, New York 10007

Dear Mr. D'Alessio:

We have a copy letter of July 22, 1968, also signed by Mr. Peter Berlinger, requesting reconsideration of your position classification appeals, which were denied by our New York Region.

We have asked the Region to forward its files on these appeals and we will respond to your request as soon as this material is received and reviewed.

Sincerely yours,

John D. Glasheen
Chief, Classification Appeals Office

cc:
Director, New York Region
U.S. Civil Service Commission

ICA:JDGlasheen:yl 8-2-68

3

A-368

Classification Appeals of Messrs. Joseph D'Amico and Peter Scalcione

AUG - 5 1968

ICA:APP

John D. Glasheen, Chief
Classification Appeals Office

Director, New York Region
U. S. Civil Service Commission

Enclosed is a letter signed by Messrs. Joseph D'Amico and Peter Scalcione requesting reconsideration of their position classification appeals which were denied by your office.

Please forward your files on these cases together with your comments on the statements contained in the appellants' letter. We have the file on Mr. D'Amico's 1967 appeal, but his letter apparently relates to a subsequent appeal to your office.

Enclosures
Copy of Ack.

ICA:JDGlasheen:yl 8-2-68

AUG 6 1968

4

A-369

Dr. Peter Scalcione
[illegible] Place
Bronx, New York 10453

Dear Dr. Scalcione:

This is in the matter of decision on the classification appeal that you submitted to this office on February 27, 1968.

In your letter you cite the case of Hubert Urich Roberts which was assigned to you in November, 1966, to support your argument that your position should be classified at GS-12. You say that this case and its collateral cases occupied more than 75 percent of your time during the period from November 1966 to February 1968. In your letter, and during the audit conducted by a representative of this office on May 15, 1968, you indicated that your request was based on this one case which occupied a major portion of your time.

In a memorandum to you on February 21, 1968, the District Director discussed your work assignments and expressed his opinion concerning the grade level of the work. He considered the Roberts case borderline between GS-11 and GS-12 if one investigator had handled the case in its entirety. He then pointed out that other investigators had been involved in the case and had developed it before it was assigned to you.

Officials in the Investigations Branch spoke of a change in the manner in which cases are being assigned. The present practice is to assign cases to investigators taking into account the anticipated level of difficulty and responsibility of the case. Recognizing that in many cases this cannot be anticipated, the practice was instituted whereby the case is reassigned when it becomes apparent that it is beyond the grade of the investigator to whom the initial assignment was made. This policy has been enunciated and is known to employees.

With reference to your position, except for the Roberts case which, according to the District Director is borderline between GS-11 and GS-12, the cases referred to you do not exceed GS-11. From discussions with officials in the Investigations Branch it is apparent that borderline c

cases, such as the Roberts case, are not being assigned to GS-11 investigators and that the present practice is to assign such cases to GS-12 investigators so as to utilize them to the fullest possible extent on GS-12 work.

In determining the classification of a position we consider regular, recurring duties. In your case it is clear that the Roberts case, on which you base your appeal, is not a recurring assignment and cannot be used in evaluating your position. Accordingly, it is the decision of this office that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

John E. Sauerhoff, Jr.
Chief,
Evaluation Branch

c.c. Associate Commissioner, Management
Immigration and Naturalization Service
Washington, D. C. 20536

b

A-371

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WASHINGTON, D.C. 20536

PLEASE ADDRESS REPLY TO

AND REFER TO THIS FILE NO.

CO 612.1-C

APR 1 - 1968

Director, New York Region
U. S. Civil Service Commission
News Building
220 East Forty-Second Street
New York, New York

Dear Sir:

Reference is made to your letter of March 6, 1968 concerning the classification appeal of Mr. Peter Scalcione, a GS-11 General Investigator in our New York District Office.

Enclosed is a copy of position description #603A7 outlining the duties and responsibilities which have been assigned Mr. Scalcione by management and an organizational chart of the Investigations Branch of the New York office.

Mr. Scalcione is and has been assigned to the Frauds Section of the Investigations Branch. The Frauds Section handles investigations looking to exclusion, deportation and/or criminal prosecution of aliens suspected of attempting to perpetrate, or who have perpetrated, a fraud in entering, seeking entry, or seeking to remain in the United States, including other persons suspected of assisting the alien in such frauds. Mr. Scalcione is responsible for conducting investigations necessary to the accomplishment of these functions. The duties and responsibilities of his position have been evaluated by reference to the Supplement to the Position Classification Standards for the General Investigating Series and found to be properly classified at the grade GS-11 level.

Attached for your information is the District Director at New York's evaluation of a case history submitted by Mr. Scalcione in his own behalf. The findings of the District Director are in agreement with those of this office, namely that his assignments are typical of those described at the grade GS-11 level in applicable classification standards.

The duties and responsibilities of the position occupied by Mr. Scalcione have been evaluated with reference to current classification standards and found to be properly classified as General Investigator GS-1810-11.

Sincerely,

E. A. Loughran
Associate Commissioner, Management

Enclosures

NYC 71/20-C
February 21, 1968

Peter Scalcione, Investigator, GS-11,
New York, N. Y.

P. A. Esperdy, District Director,
New York, N. Y.

Position Classification

I was requested on September 12, 1967 by you to express my opinion of the proper grade level of the investigative work performed by you in the New York District for the period covered in your memorandum furnished to me. I had agreed to do so with the clear understanding that it was not an official decision of the Immigration and Naturalization Service and did not bind the Service or the Civil Service Commission. It was to be merely my own personal opinion based upon my experience in the Service.

Press of other work has not permitted me heretofore to furnish you my opinion. Since receiving your request, however, I have received an instruction dated December 13, 1967 from the Northeast Regional office to which was attached recommendations dated November 27, 1967 from the Civil Service Commission to the Immigration and Naturalization Service. The spirit and intent of those instructions permit me to give you a more official opinion.

The Civil Service Commission's recommendation is to the effect that when an investigator files a classification appeal, he should furnish a case summary such as you have furnished and such "case summaries which present adequate information should be sent to a responsible official in the New York District office with a request that he review the summaries and give an official INS position regarding them." Although you do not have presently pending an appeal with the Civil Service Commission, I am applying the recent instruction nunc pro tunc on the theory that if it is desirable that it be done now, it likewise should have been done at the time your appeal was pending.

I have very carefully considered the resume presented by you and have had the necessary discussion with your supervisors. For classification purposes, I will not be able to evaluate the work you performed in Washington from April 2nd to June 26, 1967 when you were on loan to the President's Advisory Commission on Medical Manpower. Therefore, I have of necessity limited my study of your cases to the work performed by

12 Peter Fortunato

you in connection with the Hubert Irish Roberts (Allied Travel Agency) case. The work in connection with that case falls within the GS-11 classification level. You must realize that the requirements for GS-11 investigative work is of a highly demanding nature and does not involve simple investigative performance. The case you refer to is my judgment represents a border-line situation if one investigator had handled the entire matter in all of its ramifications. However, this case had already been carried by other investigators and developed quite fully when you became assigned to parts of it. It is definitely my conclusion that the part you played in this case can only be classified as GS-11 investigative work.

cc: Edward A. Clark, Deputy Regional Commissioner, NERO, Burlington, Vt.

14

March 6, 1968

Mr. Peter Scalcione
108 Field Place
Bronx, New York 10458

Dear Mr. Scalcione:

Your recent letter has been accepted as an appeal of the classification of your position under Title 5 of the United States Code, Chapter 51 (formerly Classification Act of 1949).

We are requesting a copy of your official position description and other information concerning your duties and responsibilities from your employing agency. To help us adjudicate your appeal, however, we need the following information from you:

1. A summary of each case on which you worked during the last year which represents, in your opinion, higher grade level investigative work.

2. A statement of the reasons why you think the cases cited meet the criteria and standards for a higher grade.

3. The date when you were first assigned the case and the date when you completed it.

4. The number of hours you devoted to the case during the time shown in item 3 above.

If you were engaged in conspiracy or fraud cases did you develop them, or coordinate the assignments to other investigators, or prepare the cases for prosecution? If you were engaged in racketeer and subversive cases, please furnish us with specific information on the nature of your investigative work in these cases.

Your letter states that "during the ten months from April 2 to June 26, 1967" you were detailed..... Please clarify this time period so we can relate it to the balance of your year's work.

15

As soon as possible, after we receive the above information from you and from your agency we shall give you our decision.

If you should leave your present position while waiting for our decision, please notify us as soon as possible.

Sincerely yours,

John E. Sauerhoff, Jr.
Chief, Evaluation Branch

c.c. Associate Commissioner, Management
Immigration and Naturalization Service
Washington, D. C. 20536

A-376

Address:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING 220 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

IN REPLY PLEASE REFER TO

PME:rp

March 6, 1968

YOUR REFERENCE

16

Associate Commissioner, Management
Immigration and Naturalization Service
Washington, D. C. 20536

Appellant: Peter Scalcione

Position: Investigator GS-11
INS, 20 West Broadway
New York, New York

Dear Sir:

Enclosed is an acknowledgment of an appeal presented to this office by the person named above who is employed by your agency. It is requested, in accordance with Appendix A-3, Chapter 511 of the Federal Personnel Manual, that the information checked below be submitted to this office within 15 days.

X (1) Identification of the position (number and title);

X (2) Information about the position's place in the organization (organization and functional charts are desirable);

X (3) A copy of the official position description and a statement that it is currently accurate and complete with an endorsement from the appellant to that effect;

X (4) Any supplementary information bearing on the position's duties and responsibilities;

X (5) The action the department recommends with a current evaluation statement based on reference to the Commission's latest classification standards. Stale evaluations based on obsolete standards are not acceptable.

PLEASE ADVISE THIS OFFICE OF ANY CHANGE IN THE APPELLANT'S EMPLOYMENT STATUS WHICH MAY OCCUR WHILE AWAITING OUR DECISION.

Sincerely yours,

John G. Sauerhoff, Jr.
Chief, Evaluation Branch

Enc.

17

103 Field Place
Bronx, New York 10458
February 27, 1968

Mr. L. D. Boer, Regional Commissioner
2nd Civil Service Region
U. S. Civil Service Commission
News Building
220 East 42nd Street
New York, New York 10021

Dear Sir:

This is to request an audit of my present position as Investigator, GS-11, with a view toward reclassification to Investigator, GS-12.

I am employed by the United States Immigration and Naturalization Service, 20 West Broadway, New York, New York, 10007, as a member of the Frauds and Prosecutions Section of the Investigations Branch.

It should be noted that during the ten months from April 2 to June 26, 1967, I was detailed to Central Office on loan to the [illegible] not engaged in my investigative activity during that period.

File A14 733 679 relating to Hubert Urish Roberts (NYC 30/43.40, Allied Travel Agency, Kingston, Jamaica also relates) substantially embodies all of the elements contained in the standards for the GS-12 investigative positions. This case and the 61 collateral cases have occupied in excess of 75% of my investigative time since November, 1966 to date.

In view of the fact that I perform precisely the same work as my GS-12 co-workers, I feel that such an audit is warranted.

Very truly yours,

Peter Scalcione

A-378

Address:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
NEWS BUILDING, 220 EAST FORTY-SECOND ST.
NEW YORK, N.Y. 10017

18

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

IN REPLY PLEASE REFER TO

NY:A:SMP:dmh

YOUR REFERENCE

June 12, 1968

Mr. Joseph J. D'Amico
4221 Herkimer Place
Bronx, New York 10470

Dear Mr. D'Amico:

Reference is made to your appeal initially entered on April 9, 1968, seeking an upward reclassification of your position of General Investigator, GS-1810-11, to the GS-12 grade level; and further indicating an appeal from an alleged adverse personnel action taken by your employing agency.

Your appeal for classification of your position at the GS-12 level has been considered by our Evaluation Branch, based on a review of the information submitted by you and your employing agency, and a comparison of your current position with the classification standards for the General Investigating Series, GS-1810, in the Immigration and Naturalization Service, Department of Justice. As a result of this review, no basis has been found shown to alter the previous decision we reported to you on February 1, 1967, that your position is properly classified as General Investigator, GS-1810-11. In this respect, as was noted by our decision on your previous appeal, General Investigator positions may properly include case work assignments at different levels of complexity, the final grade allocation of any particular position depending upon the level of the duties which are shown to occupy a majority of the incumbent's time. Although the record indicates that your duties have included a mixture of case work at the GS-11 and GS-12 levels, the information developed in connection with your current appeal continues to reflect that the primary work characteristically assigned to you is classifiable at the GS-11 level. Accordingly, we find it necessary to conclude that your position is properly classified as General Investigator, GS-1810-11, and your appeal is denied.

In regard to the specific complaint stated by your letter of May 16, 1968, which was submitted as an "adverse action appeal", that matter has been given separate consideration to determine whether it may be accepted for adjudication under the regulations which govern the Commission's appellate review of adverse personnel actions in the

Federal Civil Service. In this respect, to establish an adverse action which is subject to the Commission's appellate jurisdiction, it must be shown that some specific personnel action has been taken to change an employee's official position assignment or duty status, which may be recognized as adverse in nature and effect. As defined by Part 752-B of the Civil Service Regulations, such appealable matters are limited to those personnel actions which accomplish an employee's discharge, demotion, furlough without pay, or reduction in rank or compensation. The basis of your complaint concerns a particular investigative case initially assigned to you for handling, the scope of which subsequently developed to an extent considered appropriate for assignment at the GS-12 level, at which time the case was withdrawn from you and reassigned to an Investigator at that grade. In this regard, such agency administrative determinations related to the assignment of work to employees concern independant management prerogatives which are not generally subject to question by the Commission, and since your complaint is not shown within the purview of the Commission's appellate jurisdiction under the regulations governing accomplishment of adverse personnel actions, we find it necessary to decline acceptance of your appeal in this matter.

This constitutes a final appellate decision with respect to the correct classification of your current position as General Investigator, GS-1810-11. In regard to our separate decision declining to accept your adverse action appeal, no further appeal will be entertained unless it is submitted to the Board of Appeals and Review, U. S. Civil Service Commission, Washington, D. C., 20415, within 15 calendar days after receipt of this decision. Additional representations should be submitted in writing, and in duplicate, with any such further appeal. Please also notify this office if you make a further appeal so that we may transmit the case file to the Board promptly.

Sincerely yours,

L. H. Baer
Regional Director

cc:
Associate Commissioner, Management
Immigration and Naturalization Service
U. S. Department of Justice
Washington, D. C. 20536

20

Rec'd 5/17 11 AM

A-380

May 16, 1968

Mr. John Sauerhoff
Chief, Evaluation Branch
U.S. Civil Service Commission
220 East 42nd Street
New York, N.Y.

Dear Sir:

Please consider this as an adverse action appeal.

I base this claim on the fact that in connection with the performance of my duties as a GS-11 Investigator with the Immigration and Naturalization Service at 20 West Broadway, New York, N.Y., I have been performing assignments of a higher category since October 1967, entitling me to reclassification to GS-12 Investigator.

On May 10, 1968, during the pendency of an appeal with your office for reclassification from GS-11 to GS-12 Investigator, which is known to my Service, a GS-12 level investigation which was assigned to me on October 4, 1967 was taken from me and given to a GS-12 Investigator. I was told by my immediate supervisor that I could no longer handle GS-12 level investigations.

In view of the foregoing, I respectfully request that this case be returned to me since it is part of the overall picture upon which I base my reclassification to GS-12 Investigator.

I am enclosing a copy of my original letter of appeal dated April 9, 1968 in which you will note I anticipated this adverse action on the part of the Immigration and Naturalization Service.

Respectfully yours,

Joseph J. D'Amico

Joseph J. D'Amico, Investigator
U.S. Immigration & Naturalization Service
20 West Broadway
New York, N.Y. 10007

Registered Mail # 317401

A-381

21

May 15, 19

Mr. Joseph J. D'Amico
4221 Herkimer Place
Bronx, New York 10470

Dear Mr. D'Amico:

This is in reply to your classification appeal which you submitted on April 9, 1968.

To date we have not received from you the information requested in our letter of April 12, 1968. In the absence of any evidence by you of a change in your position since our previous decision we can only conclude that no change in classification is justified. If you wish to present material to justify your appeal for a GS-12 classification, it must be forwarded to us by May 22, 1968.

Sincerely yours,

Samuel Friedman
Acting Chief, Evaluation Branch

A-382

22

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WASHINGTON, D.C. 20536

PLEASE ADDRESS REPLY TO

AND REFER TO THIS FILE NO.

CO 612.1-C

MAY 3 - 1968

Director, New York Region
U. S. Civil Service Commission
News Building
220 East Forty-Second Street
New York, New York 10017

Dear Sir:

This is in reply to your letter of April 12, 1968, concerning the classification appeal of Mr. Joseph J. D'Amico, a GS-11 General Investigator in our New York office.

Enclosed is a copy of position description #603A7 outlining the duties and responsibilities which have been assigned Mr. D'Amico by management and an organizational chart of the Investigations Branch of the New York District Office.

Mr. D'Amico formerly appealed the grade of his position to your office and subsequently to the Bureau of Inspections of the Commission in Washington. In each case the Commission ruled his position properly classified. Attached for your information are the letters of decision rendered in each instance. Our District Director in New York again reviewed Mr. D'Amico's position at his request on February 21, 1968. He found that there had been no substantial changes in the position since it was reviewed by your office and found to be properly classified.

We have evaluated Mr. D'Amico's position by reference to current classification standards and found it properly classified as General Investigator, GS-1810-11.

Sincerely,

E. A. Loughran

E. A. Loughran
Associate Commissioner, Management

Enclosures

5/6/68

A-383

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UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10017

IN REPLY PLEASE REFER TO

YOUR REFERENCE

FEB 1 1966

Mr. Joseph D'Amico
U.S. Immigration and Naturalization
Service
20 West Broadway
New York, N.Y. 10007

Dear Mr. D'Amico:

This is our letter of decision on the appeal submitted by you and 53 other General Investigators GS-1810-11 employed in the New York District Office of the Immigration and Naturalization Service. These appeals were contained in four letters submitted at varying times by groups of employees ranging in size from 2 to 22.

As you know we made a site audit of your position so that we could determine the nature and complexity of the cases assigned to you. We reviewed the results of this audit and the information submitted by you, your co-appellants and your agency, and evaluated it against the Supplement to the Position Classification Standards for the General Investigating Series, GS-1810-0 for the Positions in the Immigration and Naturalization Service, Department of Justice. This Supplement was approved by the Civil Service Commission as an extension of the Commission's position classification standards for the General Investigator Series, GS-1810-0.

The letters of appeal with which you are associated claim higher grades because the investigative work performed is of GS-12 caliber, and secondly because positions in other investigative agencies with similar or lesser investigative responsibilities have been assigned GS-12 grades.

THE MERIT SYSTEM—A GOOD INVESTMENT IN GOOD GOVERNMENT

We do not compare one position against another in the same or another agency to determine the proper classification. The Classification Act of 1949 which governs the classification of positions requires that "each department shall place each position under its jurisdiction----------in its appropriate class and grade in conformance with standards published by the Commission." We must therefore determine the classification of your position by comparing it against the aforementioned standards.

In your appeal you question the propriety of titling your present job as General Investigator rather than Criminal Investigator. The type of work which you do is specifically covered in the standards for the General Investigating Series. Therefore we can find no basis for changing your title.

The standards for the General Investigating Series point out that "the basic knowledges and skills required by investigators at all levels are essentially the same. All investigators must have a good knowledge of all immigration and nationality laws, and specific knowledge of those directly relating to violations thereunder, as well as specific knowledge of the criminal statutes relating to the enforcement of the immigration and nationality laws. They must keep currently informed of precedent decisions, both judicial and administrative, and of Service policy having a bearing on the enforcement of these laws. They must know and be able to determine when a prima facie case is present for the initiation of either administrative or judicial proceedings within Service jurisdiction. They must be able to analyze cases and plan the course of investigations; adapt methods, techniques, and procedures to meet unusual situations or conditions; be skilled in conducting interrogations, eliciting information from violators or reluctant witnesses and evaluating reliability and credibility of witnesses; in examining records, documents, and other evidence to detect fraud; in tracing and uncovering evidence of assumed or

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concealed identities; in reporting facts and distinguishing between relevant and extraneous information; in techniques of unarmed self defense; in the use of firearms; in undercover and surveillance work and in dealing with emergency situations. They must possess ingenuity and resourcefulness in recognizing, developing, and exhausting all leads in a case."

The grades assigned to positions depend upon the types of assignments carried out. The complexity and delicacy; impact on national security, social welfare or economy; scope; and importance of the individuals involved affect the grade of the position. Thus, at the GS-11 levels, assignments "involve multiple issues; have a potential for developing into a number of individual cases, consistently require unusual skill and ingenuity in uncovering and developing facts; and, because of the seriousness of the violations or actions involved, or the prominence of the individuals involved, are either (a) greater in their effect as deterrents to further violations, or (b) have a greater protective value to the economy and security of the country, than the investigative assignments at the next lower level."

At the GS-12 level assignments "are relatively limited in volume------are of the "most complex and delicate nature, where the issues involved have a grave impact on the national security; involve important political, social, or similar implications; or involve persons whose conviction would be of material benefit to the nation's economy, social welfare, or security. The nature of the case assignments is such that the investigations are nationwide in scope, or where less than nationwide, are particularly complex, or the case is extremely important from the standpoint of potential effect on Service-wide operations." At this grade level investigators "must be skillful in organizing and planning large-scale investigations, and coordinating multiple investigations conducted at many points within the United States and overseas."

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4.

Many positions contain responsibilities which are classified at different grade levels. In assigning the final grade to such a position, we classify all the significant responsibilities to their appropriate levels, basing the final determination on the level of the duties which occupy a majority of the employee's time. Your position has in it a mixture of cases which are allocable to the GS-11 and GS-12 levels. Although some of your cases involve elements of assignments found at the GS-12 level, e.g., "complexity, delicacy, and impact on the national economy, social welfare, or security," we did not find that they occupied a majority of your time.

It is our decision that your position is properly classified as General Investigator, GS-1810-11.

Sincerely yours,

[redacted]
REGIONAL DIRECTOR

cc: Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D.C. 20536

Mr. Joseph D'Amico

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A-387

Joseph J. D'Amico, Investigator,
New York, N. Y.

INC 71/20-C
February 11, 1958

P. A. Esperdy, District Director,
New York, N. Y.

Position Classification

I was requested on July 27, 1957 by you through Mr. Jack Lazarus, President, AFGE Local #1917, to express my opinion of the proper grade level of the investigative work performed by you in the New York District for the period covered in your memorandum, with attachments, furnished to me. I had agreed to do so with the clear understanding that it was not an official decision of the Immigration and Naturalization Service and did not bind the Service or the Civil Service Commission. It was to be merely my own personal opinion based upon my experience in the Service.

Press of other work has not permitted me heretofore to furnish you my opinion. Since receiving your request, however, I have received an instruction dated December 16, 1957 from the Northeast Regional office to which the attached recommendations dated November 27, 1957 from the Civil Service Commission to the Immigration and Naturalization Service. The spirit and intent of those instructions permit me to give you a more official opinion.

The Civil Service Commission's recommendation is to the effect that when an investigator files a classification appeal, he should furnish a case summary such as you have furnished and such "case summaries which present adequate information should be sent to a responsible official in the New York District office with a request that he review the summaries and give an official INS position regarding them." Although you do not have presently pending an appeal with the Civil Service Commission, I am applying the recent instruction nunc pro tunc on the theory that if it is desirable that it be done now, it likewise should have been done at the time your appeal was pending.

I have very carefully considered the resume presented by you and have had the necessary discussion with your supervisors. In the light of the language set forth in the standards for GS-21 and GS-12 Investigator work, I can reach no other conclusion than that the work performed by you is at the GS-11 level. You must bear in mind that the standards for the GS-12 level work are quite high and require performance of a very exacting nature. Concededly, the cases assigned to you were difficult and required a great deal of ingenuity but they did not involve the extremely high degree of quality described in the GS-12 standards.

With reference to your statement that t[illegible]vil Service Commission found that the very same cases which you were [illegible]ying were of a grade GS-12 level when the Commission made its decision in the case of another investigator, you are, it is assumed, referring to the Peter Tinca marriage fraud situation. Your assignment is easily distinguishable from that other investigator who had the basic Peter Tinca situation and its major facets assigned to him and under his control. The Greek fraud cases that were assigned to you were principally the beneficiaries of the marriage fraud and not the principals and your area of operation was limited in scope. Therefore, your work cannot properly be equated with the other investigator who was classified at the GS-12 level.

cc: F. W. Wroblewski, Assistant District Director for Investigations

cc: Edward Kavazanjian, President, AFGE Lodge 1917

cc: Edward A. Clark, Deputy Regional Commissioner, NERO, Burlington, Vt.

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A-389

4221 Herkimer Place
Bronx, New York 10470
April 9, 1968

Mr. John Sauerhoff
Chief, Program Management & Review
U.S.Civil Service Commission
220 East 42nd Street
New York, New York

Dear Sir:

In accordance with the classification act I wish to appeal my present grade classification, which is GS-11.

I also request an immediate desk audit and I am prepared to immediately submit the uncontestable proof of my GS-12 level of performance.

I wish to call your attention to the fact that I am now assigned a number of complex GS-12 level fraud investigations and that the Immigration and Naturalization Service will undoubtly attempt to remove these cases from my responsibility inorder to deny me my proper grade classification. I shall consider this action on the part of the Immigration and Naturalization Service as an adverse action and will demand that the Civil Service Commission and the Immigration and Naturalization Service take steps to prevent the removal of this GS-12 level work. I am employed as an Investigator with the New York office of the Immigration and Naturalization Service.

Very truly yours.

Joseph J.D'Amico

Cert. Mail 364539

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A-390

U.S. Immigration & Naturalization Service
20 West Broadway
New York, New York 10007
July 19, 1968

Mr. Joseph Glasheen
Chief, Adjudications Review
United States Civil Service Commission
Washington, D. C.

Dear Sir:

In accordance with a phone conversation with Mr. John Sauerhoff of the New York Regional Office, U. S. Civil Service Commission, who allowed us more time in submitting our request for reconsideration, we are now submitting a statement which pertains to our classification appeal which was denied by the New York Region. Although there are some differences in the essential elements of both of our appeals, the principle we wish to have you consider as the basis for our reclassification, is essentially the same. We submit the following for your consideration

We are employed in the **INV.** Frauds Section of the INS, New York office, as Investigators. The functioning of an Investigator in this Unit can only be at the highest grade level and level of performance and the standards for Investigators in the Immigration Service has a GS-12 position description as the highest field grade. We based our appeals on performance at GS-12 level of work a majority of our working time and over a period of more than six months duration. In 1967 the CSC saw fit to reclassify 23 Investigators of this office who substantiated the fact that they were doing GS-12 level work. It is interesting to note that at the same time the CSC found the GS-12 level work being performed by INS Investigators, the INS, Central Office, Management, denied that any work of the GS-12 level existed or was encountered by Service Investigators. Therefore, we can assume that the INS found that all field work was assigned and was characteristic of the GS-11 level of performance.

In March, 1967, the INS made a self-audit of Investigators and Investigations in the **INV.** Frauds Section of the New York office where we are employed. They found at that time an Investigator who had been a GS-11 for approximately six months but who was performing GS-12 level work a majority of his time. From March, 1967 until November, 1967, this Investigator who was "characteristically

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to be assigned only GS-11 work," was allowed to maintain his regular caseload, which was of a majority of GS-12 level work. In November, 1967, this same Investigator was then promoted to the GS-12 grade. This is an example where the INS allowed an Investigator who was characteristically to be performing only GS-11 work, carry the GS-12 work he was performing and then to be reclassified on the basis of that GS-12 performance.

The Position Classification Standards state clearly and concisely that if a certain grade level work is performed a majority of the time and if this work is the paramount and preponderant duty of the position, then the position should be classified o that basis.

We believe that there is sufficient paramount and preponderant work and duties of the GS-12 level in the Frauds Unit of which we are assigned, to justify our reclassification since we have submitted evidence of this performance to your New York office. However, your New York office has not used this performance at the GS-12 level a majority of our time as the basis for our reclassification.

Your evaluators chose to introduce new language, not based on the description and the instructions of the Position Classification Standards. The INS and the CSC cannot arbitrarily use language, words or techniques to deliberately forestall the proper grade level for employees or to enforce budgetary limitations and policies as set by the Agency or the Bureau of the Budget. Purposes of economy are not satisfied wholly by the deprivation of the proper grade levels of performing employees.

We hereby request a review of our appeal and the unbiased and literal application of the Position Classification Standards to our submitted briefs asking and justifying our reclassification to GS-12.

Very truly yours,

Joseph D'Amico

Peter Scalcione

Attachments

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A-392

May 14, 1968

Mr. John Sauerhoff,
Chief, Evaluation Branch,
United States Civil Service Commission,
220 East 42nd Street
New York, New York.

Dear Mr. Sauerhoff:

I am a General Investigator, GS-1810-11 in the New York District Office of the Immigration and Naturalization Service, 20 West Broadway, New York, New York assigned to the Frauds Unit.

Since October, 1967 I have been assigned to cases involving widespread conspiratorial schemes engineered by attorneys to circumvent the immigration laws. My task was to uncover attempted or actual frauds, establish the identities of the perpetrators, and to submit such evidence to the United States Attorney. Such investigations are profoundly complex and involve persons skilful in deception and quite knowledgeable in immigration laws and procedures. Multiple investigations, here and abroad, are painstakingly pursued to produce an actionable cause. Special skills, such as finesse in the interrogation of witnesses to obtain valid confessions, must be possessed by the Investigator. Mindful of the Supreme Court 's decisions protecting the rights of persons being questioned, and despite the deliberate delaying tactics of Counsel, all necessary steps must be patiently followed to assure success.

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The thoroughly documented case handed over to the government attorney for prosecution is but the final phase in a detailed and painstaking operation initiated many months previously by the Investigator. The resultant exposure and punishment of the guilty parties serve as a strong deterrent to others similarly tempted to violate our immigration laws.

In accordance with your instructions of April 12, 1968, the following information is furnished on the nature of my investigative work during the specified time period in support of my classification appeal of April 9, 1968:

GOLDINFELD, David, A 17 536 428:

Assigned to me October 4, 1967, the investigation was predicated upon a report to our Central Office in Washington, from the Investigative Branch of one of the Military Services of the United States. The report indicated that GOLDINFELD, an attorney of New York City, was actively attempting to recruit civilian employees of an overseas military base of United States Armed Forces, to enter this country. Our Central Office alerted our New York Office and directed that we investigate his activities and explore the possibility of Service action being instituted against him. My then first line Supervisor, Steve Greenson, in assigning this case to me conceded that it was a GS-12 level case, but stated that it was imperative that such an investigation be commenced immediately.

To date, the writer has coordinated some sixty cases currently represented by Attorney Goldinfeld before this Service and the Depart-

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ment of Labor. These cases clearly disclose that Scheinfeld is deeply enmeshed in a large scale conspiracy to wilfully violate the laws and regulations of both our Service and of the Department of Labor by the importation of aliens into the United States, allegedly as live-in maids, and other domestic help. His operations cover aliens residing in Jamaica, Dominican Republic, Ecuador, Panama, Guyana, Canada, Costa Rica, and Haiti, who are all visa applicants, actual or prospective, his activities directly concern the American Embassies and Consular Offices in the above-mentioned countries. This attorney represents aliens seeking admission, and aliens already admitted here as nonimmigrants for temporary periods. He represents this latter group of aliens before this Service in proceedings wherein by presenting documents which he knows contains false statements, he attempts to, and does secure for them, further extensions of their temporary stays in the United States. These out of status aliens then continue their employment, in flagrant violation of law, while the attorney above-named attempts by further deceptions to secure a visa for them. Several violations by this attorney have been uncovered concerning Title 18, USC 1001, dealing with False Statements and Writings, besides violations of Title 18, USC, 371, Conspiracy, plus other related charges.

To accomplish this conspiracy, Scheinfeld has secured the services of various individuals here who mouth his promise to aliens already here

that attorney Scheinfeld can secure the necessary labor clearance, and eventually, even a permanent resident visa, for them. His financial interest in a New York City employment agency gives him ready access to the identity of persons desirous of hiring live-in maids from foreign countries, and he fully exploits such information in the following manner. His wife is listed as the Secretary of the corporation that controls the employment agency. The prospective employer telephones the agency seeking to hire a live-in maid from a foreign country. Mrs. Scheinfeld directs this person to call her husband's office, assuring the caller that such help is there available. Her husband then induces the prospective employer to sign the necessary documents, such as Offer of Employment, Department of Labor Form ES-575, Affidavit. Scheinfeld then selects a name from his list of clients. Sometimes it is a person still residing in her native country. But often the employer needs the services of the maid right away. Scheinfeld then must without delay send one of his clients already living here as a nonimmigrant to fill that position, which is done withfull knowledge of the alien and her attorney that a non-immigrant visitor to the United States is not permitted to accept any employment during her stay. In the course of her newly found employment her period of temporary stay here expires. Scheinfeld then directs his client to sign a blank Form I-539 (application for extension of temporary stay in the United States), then completes the form himself making entries and statements on the application which he knows to be false, and submits this application in his client's behalf to this Service. This process is often repeated, as frequently as is deemed necessary to continue her employment until such time as a visa becomes

available in a foreign country. This use by Scheinfeld of his law office as an adjunct of an employment agency is in direct violation of the laws and regulations governing employment agencies in New York City as administered by the Department of Licenses of that city. Incidentally, close liaison is being maintained between that department and our Service, and they inform us that they fully intend to institute proceedings against Scheinfeld, upon completion of our case.

Scheinfeld is also amenable to prosecution in turn by the Department of Labor for the wilful presentation of false and misleading statements he has caused to be made to that agency, on the basis of such false documents he has secured favorable action on his applications.

The above investigation meets the criteria for GS-12 level of performance forthe following reasons:

a. The casefrom its inception had international ramifications, not excluding the possibility of national security being at stake.

b. The case was developed in its entirety by this investigator.

c. The case required the coordination and analysis of over 60 individual cases.

d. The case was complex, wide in scope and involved issues within the jurisdictional responsibility of three governmental agencies.

e. Has disclosed wilful violations not only of immigration laws, but the regulations of other governmental agencies as well.

f. This investigation covered seven monthsfrom the date of my assignment on this case, continuing to date, and during this period fully 70% of my investigative labor was devoted to its development.

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NOTE: In the third paragraph of my letter to you dated April 8, 1968, I stated: "The Immigration and Naturalization Service will undoubtedly attempt to remove these cases from my responsibility in order to deny me my proper grade classification." On May 2, 1968, my first line Supervisor, Louis Kaye removed the case of David Schoinfeld from my responsibility as I had predicted. Mr. Kaye explained that the case was a GS-12 level case, and under outstanding instructions he was compelled to take the case from me and assign it to a GS-12 Investigator. I consider this a deliberate subterfuge by the Immigration Service to unfairly deprive me of my proper grade: GS-12.

On January 17, 1969, Mr. Kaye was advised of the direction this case was taking and he directed me to resume control of the case.

On cases of this nature, with these issues involved, our Central Office maintains call-ups. Accordingly, a report on the status of the case was requested by them, and I was instructed by Supervisory Investigator Kaye to submit such report. I submitted a complete report of this case to Mr. Kaye on April 25, 1968. This report remained with Mr. Kaye until May 16, 1969, when the entire investigation was transferred to a GS-12 Investigator in the Fraude Unit, Mr. Frank Stowe.

On May 13, 1969, Mr. Abe Spivack, Chief of the Fraude Unit called me into his office and advised me that the case was transferred to Mr. Stowe because it was a GS-12 level case. He also told me that I would not be used and that Mr. Stowe had been directed to prepare a memorandum on the Schoinfeld matter. The original copy of the report remained in the file, with a line drawn through each page to

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indicate it was not being used. Mr. Stowe had nothing to do with this case until the day it was assigned to him, May 10, 1968. By his own admission Mr. Stowe composed his report solely from information extracted from my report, supposedly unused, and the facts disclosed by my investigation.

I believe these facts speak for themselves. The inescapable, obvious conclusion is that the Service's present posture in transferring this case to a GS-12 Investigator--merely because it is GS-12 level work--is preposterous. Only when the Service learned of my appeal to the Civil Service Commission for reclassification to GS-12 Investigator, basing such appeal on my work in the Rehnfeld matter, did the Immigration Service move to invoke the regulation it had long and callously breached. It was a deliberate and calculated move to deprive me of the GS-12 grade, and to degrade my pending appeal. Admittedly, by all concerned, it is a GS-12 level case, but I had the case since its inception, I worked hard and long on it, and this petty, punitive action is not a fair reward for my labor.

LEE-KIN, Judith Senya, A 17 502 970

Case assigned to me November 15, 1967 and completed May 3, 1968, also concerned a live-in maid. Inquiry from a Congressman precipitated this investigation. It was alleged that the Subject had fraudulently obtained a visa which admitted her to the United States to work for a specified employer as a live-in maid. This case is one of many

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represented by an attorney who is personally under proceedings. This attorney's case is not my present responsibility, but that is entirely pertinent here. My investigation which established the deportability of the Subject also revealed certain novel issues which had an important bearing on our present and future handling of certain Service-wide operations. This particular investigation was widely discussed, both in our Northeast Regional Office and in our Central Office. These discussions are leading to the establishment of certain guidelines for future cases involving violations of Section 212(a)(14) of the Immigration and Nationality Act. The case file is replete with correspondence from Service officials at the highest levels attesting to my statements.

This case meets the criteria for GS-12 level of performance for the following reasons:

a. The case was developed entirely by this Investigator.

b. It is being utilized to establish important guidelines for the future handling of certain Service-wide operations.

c. This investigation was assigned to me on November 15, 1967 and was closed on May 3, 1968. During this period approximately 70 hours of my investigative effort went into its development.

McCLURE, Marjorie Cynthia, A 12 777 451

This case, assigned to me in October, 1967, continues to date. It concerns fraudulent marriages entered into by aliens to evade our laws. The entire conspiracy is controlled by McClure, and all are arranged by her. Our present evidence definitely links her to seven

such marriages.

The importance and urgency of the first two cases described above have prevented me from devoting more of my investigative time to this last case. However, I estimate that about ninty hours were spent by me on this case to date.

Other Duties (which fall clearly within the GS-12 level).

During the period of time covered by this summary, this Investigator was assigned to act as Supervisory Investigator, during Steve Grossman's absence. This entailed the supervision of GS-11 Investigators, the assignment and review of all cases to and from these investigators, furnishing all necessary instruction to correct any inaccuracies in their reports, and to avoid delays in the final completion of their reports. Part of my responsibility during my tenure as Acting Supervisory Investigator was to insure that the officers under my jurisdiction were made fully aware of, and closely followed the policies and decisions established by this Service. My assignment as Acting Supervisory Investigator covered 61 hours.

Joseph D. Amesse
Senior Special Investigator,
Immigration and Naturalization Service
United States Department of Justice
20 West Broadway, 10th floor,
New York, New York, 10007.

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A-401

UNITED STATES GOVERNMENT

Memorandum

T. ... Esperdy, District Director
New York, New York

DATE: September 12, 1967

FROM: Scalcione, Investigator GS-11

SUBJECT: NYC 71/20-C; 8/21/67; Review of Positions

(THROUGH ASSISTANT DISTRICT DIRECTOR FOR INVESTIGATIONS)

I have been performing investigative work of a higher grade for the past ten months to justify consideration for a higher classification.

It should be noted that during these ten months, from April 2 to June 23, 1967, I was detailed to Central Office on loan to the President's Advisory Commission on Medical Manpower and, therefore, not engaged in any investigative activity during that period.

File A14 723 679 relating to Robert Urich Roberts (NYC 90/48.10, Allied Travel Agency, Kingston, Jamaica also relates) substantially embodies all of the elements contained in the standards for the [illegible] investigative positions. This case and two [illegible] cases have occupied in excess of 75% of my investigative time since November, 1966 to date.

The principal conspirator and the Allied Travel Agency, Kingston, Jamaica, where a white male, apparently English, conspired to furnish aliens fraudulent documents to obtain visas and indoctrinated these aliens in the methods of avoiding detection by this Service by use of fictitious identification and destination data.

Essentially, the case involved sophisticated document fraud patterns on a large scale in a foreign country and was the result of a cleverly conceived conspiracy, organized and controlled by a single organization directing operations on an international basis.

These two conspirators along with other identified persons are shown to be in a position to direct, motivate and control large numbers of people in various illicit activities affecting the security and welfare of this country.

Peter Scalcione

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

A-402

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ICA:

JUN 9 1967

PERSONAL

Mr. Joseph J. D'Amico
Immigration and Naturalization Service
20 West Broadway
New York, New York 10007

Dear Mr. D'Amico:

We have completed our review of your position classification appeal which was denied by our New York Region.

Our study included careful consideration of the arguments presented in support of your request for reconsideration and the [illegible] oped by the New York Region on the case, as well as discussion of your work with supervisory personnel in your organization.

We find no evidence of failure on the part of our regional office to consider all material facts and no indication of probable error in the Region's decision. Accordingly, we are affirming the decision of the Region that your position is properly classified at the GS-11 level.

Sincerely yours,

John D. Glasheen
Chief, Classification
Appeals Office

ICA:JDGlasheen:hvc 6-8-67

JUN 1 [illegible]

APPEAL-TEAM

A-403

53

February 15, 1967

United States Civil Service Commission
Washington, D. C.

Gentlemen:

Subject: Objection to findings of "Site Audit" conducted by the Civil Service Commission at the New York Office of the Immigration and Naturalization Service.

There is attached a letter received by me from the Civil Service Commission which contains the results of the "Site Audit" conducted by them regarding my position. A comparison of the letters received by other investigators on the floor reveals that this is a form letter and in no way states any of the specific findings on my particular position. It will be noted that case four, first paragraph, states in part: "Your position was in fact a mixture of cases which are allowable to the GS-12 and the GS-12 levels. Although . . . . ., we did not find that they occupied a majority of your time."

To give a brief rundown of my work during the past two years: I was transferred into the Frauds & Prosecutions Section on June 13, 1966 along with several other investigators (one of whom was approved by the Civil Service Commission as doing GS-12 level work, work comparable in every way to that assigned to me). From November 1964 to June 13, 1966 I was assigned the work of establishing an effective program to combat smuggling of aliens by air, from any part of the world, into the United States. This assignment, among other things, contained the necessity of establishing an effective communication with many other agencies, private organizations, and law enforcement agencies. This position, prior to the November 1964 date, was not in existence in the New York Office. This assignment also contained the maintaining of communication with other Service Offices throughout the United States if the program was to be effective. These statements can be verified by the fact that the establishment of the program was directed by the Regional Office at the direction of the Central Office.

On June 13, 1966 I was transferred into the Frauds & Prosecutions Section. I was assigned a case load which consisted mostly of cases involving marriage frauds between Greek men and Puerto Rican

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women. The cases assigned to me were part of a caseload by another investigator. At that time, he was carrying far too many cases for him to be effective. His caseload was therefore divided, he kept some and I was assigned the other half. The assignment cards (G-600) maintained by my supervisor can verify who had the cases before me and when they were assigned to me. The cases were all part of a large group of marriage frauds involving an attorney and many "runners and arrangers". At the time of the audit, the officer of the Civil Service Commission was shown a complete list of the cases assigned to me. The list was made up of thirty-two (32) cases. Twenty-one (21) of these cases involve the same attorney and the same "runners and arrangers". The basic objective in the investigations was the same; obtain the evidence necessary to prosecute the attorney and the other individuals involved. These cases are so complex in nature that they are not assigned to all investigators, even within the Frauds & Prosecutions Section. The entire group of cases involving this one attorney are divided only between myself and this other investigator.

The nature of the cases are such that it is often necessary to deal with many other Service Offices throughout the United States, requesting investigations and coordinating information received. At the present time and at the time of the audit, most of the cases are still in the "suspect stage" and must be fully developed toward prosecutions and deportations. It is my responsibility to advise the Consular Offices throughout the world, where visas are to be issued to these individuals, of the results of my investigation. I must secure the necessary evidence to prosecute the attorney and all other individuals and then present the cases to the proper United States Attorney. Although the cases assigned to this other investigator and myself involve the same attorney, my activities are independent of his and are in no way directed by him. The attorney has not been prosecuted yet, and the U.S. Attorney will made a decision as to the nature of the prosecution when the entire results from both of us have been received.

The other investigator I have been referring to, because of the widespread conspiracies and complexity of the cases, was audited and he was found to be performing work of a GS-12 level. In other words, the Civil Service Commission has found that the very same cases which I am carrying are of a GS-12 level. The attached copy of the letter received by me from the Civil Service Commission states that "Your position has in it a mixture of cases which are allocable to the GS-11 and GS-12 levels." If twenty-one (21) of the thirty-two (32) cases assigned to me are exactly alike in complexity, and the Civil Service Commission has already found, in the case of the other investigator, that these cases are of a GS-12 level, then it must follow that the majority of my work is of a GS-12 level.

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I must say at this time that all the cases assigned to me are in the fraud category. The mere fact that they are in the Fraud Section indicates that a fraud exists or is suspected. It should be noted that all "big" cases, that is, all complicated conspiracies, began with the assignment of a single case.

The remainder of the cases assigned to me are all marriage fraud cases which have not been tied to any particular group or ring. They have not been developed yet and only a full investigation will tell if a large scale conspiracy exists. In the event that a large conspiracy is uncovered, the case will remain for me to develop to its conclusion. When the case is assigned, there is no way of determining if it is of a GS-11 or a GS-12 level.

I urge the Commission to reconsider the facts as stated above and reach a proper conclusion in my case. The conclusion that I am doing work which is of the GS-12 level for the majority of my time.

Very truly yours,

Joseph J. D'Amico, Investigator (GS-11)
Frauds & Prosecutions Section
Immigration & Naturalization Service
New York, N.Y.

A-406

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U. S. IMMIGRATION AND NATURALIZATION SERVICE EMPLOYEES
LODGE NO. 1917
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
P. O. BOX 684, CHURCH ST. STATION
NEW YORK, N. Y. 10008

December 1,1967

Gilbert Schulkind
Director, Bureau of Inspections
United States Civil Service Commission
Washington, D.C. 20415

Dear Mr. Schulkind,

Enclosed please find a detailed report submitted on behalf of the remaining appellants GS-11 from this Lodge who submitted consideration requests to you during March and April of this year. At the time of the conference in Mr. Griner's office on Nov. 3,1967 you expressed the desire to review what we thought were new and vital issues to the evaluation of the appellants. We ask that you consider the arguement which is not too complex and, we believe, new and vital facts to support the claim for reconsideration. May we inform you that of those unsuccessful appellants, Mr. Sam Villanova was recently promoted to the GS-12 grade and his case is not part of this new request. We hope to hear from you soon.

Very truly yours,

Edward Kavazanjian

Edward Kavazanjian National Delegate

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NATIONAL DELEGATE
EDWARD KAVAZANJIAN

EXHIBIT E

4

THE RE-CLASSIFICATION APPEALS OF GS-11 INVESTIGATORS

New York District - Immigration and Naturalization Service

Submitted by Lodge 1917, AFGE, New York, New York

This Union Lodge has been involved in the appeals of Investigators of the Immigration and Naturalization Service at New York City. The United States Civil Service Commission has denied twelve appeals upon recommendations requested of the Bureau of Inspections in Washington. We believe that the Bureau of Inspections has ignored many special factors worthy of consideration in the audits which led to their decisions to deny the appeals of the remaining twleve appellants. We respectfully submit the following statements of fact in support of our request for re-consideration of these denials.

In 1959 the INS created a standard position description for a non-supervisory GS-12 Field Investigator for the Immigration and Naturalization Service. Until March of 1967, the INS administration refused to implement this standard, or to evaluate field investigators against the standard. The standard, to all intents and purposes, was a very general document, covering all duties of the GS-12 level then existing in 1959. During the period from 1959 to 1967, employees and their organizations, and members of Congress inquired as to the GS-12 level of work done by the field investigators of the INS, and broached the possibility of creating some positions to complete the

EXISTING adjudication of GS-12 level work. In every instance, the INS administration met these inquiries by professing that no GS-12 level work existed and, should such need arise, that work would be done by GS-12 supervisors, in addition to the supervisors' regular duties. As late as June, 1966, the INS informed Chairman Macy that this was the case. Yet the Civil Service Commission audits of the Investigators, conducted in 1966 at the New York office, revealed that 23 GS-11 investigators were doing better than fifty percent GS-12 level work. The conclusion is inescapable that on the basis of 1500 hours work per man per year as an average, these 23 GS-11 investigators in 1966 performed a minimum of 17,250 man-hours of GS-12 level field work. To further emphasize the INS misrepresentation of the amount of GS-12 level work-load, the Civil Service Commission in its audits found that every single one of the 47 appellants were doing some GS-12 level field work.

We have introduced the above information here, only to acceptuate and underline the type of management policies pursued by INS, and the persistent and deliberate effort expended to deny career employees proper classification and grade. We also draw attention to the flagrant and calculated tactics employed by INS to deceive inquiring parties of interest, cnncerning the eventual creation of GS-12 field grade positions.

In 1966 the INS Investigations Section, New York Office, had an

average of 3500 cases pending at all times in General Investigations; Frauds and Prosecutions, and Special Investigations Sections. Presently there are over 5000 assigned cases in these same units. Then, as now, approximately 100 investigators were assigned among these three units to handle all of these investigations. Each of the three units had its share of GS-12 level work, either by reason of the subject matter, the personality involved, or by other designations as set down in the GS-12 job performance standards created by the INS.

In 1966 each investigator carried an average of 35 cases per man at all times. Presently the figure runs from 45 to 50 assigned cases per man. There were, and there are now, no unassigned, or any unassigned pool where cases are held in abeyance. As cases arise or are created, they are assigned to individual investigators who have the responsibility of that case until it is closed by the different areas of resolvement.

In the Frauds and Prosecution Area, we find single and multiple frauds of all types, involving all varieties of subjects and personages, as well as the processing of illegal aliens and the prosecution of all, alien or citizen, violators of our immigration laws. This area also deals with visa frauds, marriage frauds, and matters relating to attorneys, travel agencies and labor clearances. Cases here are complex and single cases often mushroom into large conspiracies and frauds.

The Special Investigations Section deals with a broad variety of subjects, including subversive matters, as well as criminal, immoral, narcotic and racketeer categories. We find here investigations of Cubans, Dominicans, and Haitians involved in subversion in its many facets, including organizations and publications. In the criminal area such subjects and persons involved in the Special, Attorney-Generals, Organized Crime Drive, Top Priority Racketeers, Vice Rings, International Fugitives, Smugglers, and the common alien criminal, sex pervert, narcotic addict, petty racketeer and hoodlum. Of course, the de-naturalization, or the prevention of naturalization, of all of these categories, is the main subject of many investigations in this unit.

In the General Investigations Area we find investigations involving de-naturalization, immigration law violators who do not fall within the criminal or subversive categories. This area also covers personal injury claims, auto accidents, and personnel investigations.

The above functions are detailed here as a preface to our main theme: OVERLOAD OF CASES ASSIGNED to investigators of the INS at New York. We believe this overload to be a deliberate infliction by management for a dual purpose: 1) to negate and defeat any possible benefit resulting from a Civil Service Commission audit; and 2) to firmly prohibit any investigator from specializing in any type of case which would exhibit any unique skill or technique by the investigator thus

tending to set him apart from any other investigator. We see management spreading the higher level cases among all personnel, rather than restricting such assignments to the appropriate higher level positions. We thus observe a vital and necessary Bureau faced with important investigative tasks which safeguard our national security and welfare, being saddled with severe and unnecessary hardships deliberately created by management through persistent neglect.

Let us examine this charge that OVERLOAD is a conscious policy of management. Every federal agency concerned with investigations must realistically evaluate its activities in order to create caseloads of work assignments which best meet the agency requirements and concurrently protect the nation, the public, and all parties at interest. An investigator can only perform so much work daily, and usually an agency attempts to blend the level and difficulty of the occurring investigations, so as to strike a balance permitting the most efficient execution of his duties by an investigator, in relation to his responsibilities. Much work of ~~primary or~~ secondary importance is held in abeyance, or withheld in an unassigned pool, until it can be handled. Exceptions to this would be investigations arising as a result of an emergent situation, or sometimes, routine every-day occurrences from actions of aliens or citizens. The commission of crimes, violations of law, and active participation in frauds and conspiracies and substantive cases fall in this group.

Every federal agency must then examine its needs, work demands, and the grade level demand of the work, and plan to meet these needs. Grade 12 level work in the Immigration and Naturalization Service should be organized and collected under certain established GS-12 positions to handle the work as it occurs. As the level of work increases, or decreases, good management demands that it be handled by the person best qualified to do so at those levels. We refer to page 25 of the Position-Classification Standards of the United States Civil Service Commission, the second paragraph at the top of the page, which reads:

> "One method of better use of available manpower is the constant matching or adjusting of the work to be done to the abilities and skills of employees available to do it. A principal objective is to make full use of the highest skills of employees, particularly if such skills are in scarce supply, as contrasted with work methods which confine the use of such skills to a small part of their working time.
>
> Departments and agencies should accordingly examine carefully the overall work program and the individual work assignments in the organization unit where there are mixed-grade positions. It may be found, for example, that duties and responsibilities classifiable to the higher grades, and requiring the scarcer skills are distributed among too many positions, contrary to the interests of conservation, utilization, and economy. Corrective action should be taken whenever this examination discloses a more economical and efficient way to organize."

When management says it needs no GS-12 positions because no GS-12 level work exists or is encountered, then there is little need to argue about the classification of the higher level of work. When it is found that management had its GS-11 Investigators doing some

GS-12 level work all of the time, and many investigators doing such work more than fifty percent of their working time, then management must take steps to create positions for this work. We must conclude that this spread of GS-12 level work among the lower grade positions was deliberately fostered by management to render incumbents ineligible for re-classification. Adding insult to injury, the INS management, not content with the above cited improper distribution, then proceeds to overload the same investigators with routine cases, and cases of relatively minor importance, with a total disregard of the resultant case-loads, in defiance of good management precepts.

Pursuing such a policy, management pays little heed to the mental or physical health of the investigators involved. In the New York district, this overload requires the investigator to carry and to complete three to six times the case load assignments of investigators in other districts of the Immigration and Naturalization Service. The overload in New York is created by INS management for two purposes:

1) To prevent the possibility of re-classification to the GS-12 level, by diluting the work, and insuring that any audit for appeal must fail. This also spreads the existing GS-12 level work among all GS-11 incumbents.

2) Prevent the hiring of additional personnel for reasons of economy, and then proudly proclaim to the Congress that the existing personnel can handle all of the work that occurs, regardless of its level of difficulty.

Having discussed the overload we are now prepared to discuss the Civil Service Commission Position Classification Standards as applied by the Civil Service Commission. We refer to the so-called "mixed-grade" definition, contained on pages 25 and 26 of the Standards.

This discussion centers about the duties and responsibilities which will govern in evaluating the grade of an employee where the work falls in two different levels. Our argument primarily concerns the application of the mixed-grade rule to normal conditions of work and organization. To apply the fifty percent rule to New York district INS investigators is a gross injustice since the investigator is carrying from three to six time the caseload of other INS investigators, or for that matter, the investigators in any other branch of the federal service. We challenge anyone to refute this statement. We believe that the needless infliction of such overloads and excessive work demands is most discriminatory and improper, and in justice, the Civil Service Commission is precluded from invoking the mixed-grade rule in such an obviously unfair situation. Overloaded, to deny the GS-11 his GS-12 grade, and overloaded to insure he will be overworked and under-graded. We believe you will agree that the mixed-grade rule is only applicable under normal conditions, not under artificially created situations where the employee is literally "sand-bagged" or locked into a situation which he finds inescapable.

Our argument supports our request that you evaluate the GS-12 level of work being performed by the GS-11 investigator in New York in the context of a normal case-load including lower-grade investigations, disregarding the deliberate overload which strikes an imbalance thus placing the majority of the work outside the scope of the higher grade level of work. We believe the charge is well founded that management persists in this policy of overload solely and purposefully to prevent re-classification to the higher grade.

Returning now to Position Classification Standards, at page 25, we call your attention to the following excerpt:

> "Authority to correct ineffective distribution of work among individual employees and to improve such distribution, is a general management power and usually is not vested in a personnel office or position classification unit. * * * * * * * * * * * * * * * * Consequently, the agency should provide means by which such information may be reported to the administrative officials who have the authority and responsibility for taking direct action and following through to achieve the desired results."

Possibly, you remain unconvinced that the INS has deliberately prevented re-classification to the higher grade by means of the overload and the refusal to create the higher positions, we beg your further indulgence for this bit of information which underscores the duplicity which cloaks INS management in its maneuvers to discriminate against investigators of the New York District.

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In February, 1967, the Civil Service Commission, New York Region, ordered the re-classification of eleven GS-11 investigators to the GS-12 grade. In March, 1967 Commissioner Raymond Farrell issued instructions to all District Directors that evaluations would be conducted of all GS-11 investigators in the INS to determine who could be promoted to the GS-12 grade. The Commissioner stated that the same yardstick used by the Civil Service Commission in the New York audits (the fifty percent mixed-grade rule) would be employed. As a result, twelve GS-11 investigators in the Los Angeles district were selected for promotion to the GS-12 grades, presumably on the basis of that yardstick.

However, diligent inquiry by this Union and its National Office, it was learned that of the twelve selected in Los Angeles, only two were shown to be engaged in GS-12 level work the required fifty percent of their working time. The remaining ten selectees were so engaged only twenty-five percent of their time at most, and one only as little as ten percent. Thus was the yardstick waived. Continuing inquiry by this Union further revealed that Mr. E. A. Loughran, Associate Commissioner, Management, stated that these men were selected in anticipation of the creation of a sufficient number of GS-12 positions to handle existing district case traffic at such level.

It is interesting to note that the Los Angeles selections were

being made at exactly the same time that twenty-three GS-11 investigators from the New York district sought reconsideration of previous denials, directing their appeals to the Bureau of Inspections of the Civil Service Commission in Washington, D. C. This, we insist was indeed a callous application of a double standard. Most certainly, The Civil Service Commission in league with INS management did not judge the two districts by the same standards. It is indefensible in common justice that INS in one instance should rather arbitrarily create GS-12 positions on the basis of only ten percent of a workload falling within GS-12 capacity, and in another instance, completely ignore a vastly higher percentage of GS-12 level work being performed by another group of investigators. Beyond any doubt the overload created in the New York District, and the purposeful juggling of all available GS-12 category cases is expressly designed to minimize the overall percentage of GS-12 grade work being performed by GS-11 investigators in this district. An objective analysis of the differential in case-load volume in Los Angeles and in New York must lead to this conclusion.

We in New York claim our just right to be evaluated by exactly the same standards applicable in other areas of the nation. The Civil Service Commission has the responsibility to take action necessary to insure proper and equal classifications of all the

employees of any agency, thereby providing, insofar as possible, like pay for like work, regardless of duty station location.

If California has demonstrated its need for twelve GS-12 investigators, by the same token, New York can as easily demonstrate its urgent need for at least fifty such positions. At the present time a minimum of 1,000 GS-12 level cases are pending in the Frauds and Prosecutions Unit in the New York District. In that Unit the GS-12 investigators are carrying from fifty to eighty cases per man. Were this overload properly re-assigned to newly created positions, the work could be smoothly processed and delays of one and two years in case handling would be a thing of the past. The Frauds and Prosecutions Unit alone therefore could with true economy utilize thirty GS-12 investigators on the basis of the volume of GS-12 level cases extant.

Pertinent to this discussion of GS-12 level work, a brief mention should be made of special conditions existing in the Criminal, Immoral Narcotic and Racketeer category area of Special Investigations Branch. Here unique circumstances arise hourly in the day to day investigative procedures, occasioning a considerable volume of substantive work, requiring immediate attention and action by whoever is then and there available. The supervisor often assigns cases according to their apparent difficulty, but what may appear as an innocuous court case, or a simple apprehension, may well develop

into the most complex case in the office, calling for a much higher degree of experience and special skills than at first seemed likely. Let us discuss some of these factors and their bearing on the problem of proper and adequate assignment of the cases in this area.

1) Available manpower: When an investigator is present in the office or immediately available to go to court, to meet a plane, to answer a complaint, to interview a complainant, or is not on sick or annual leave, or is not encumbered by too many cases.

2) Geographical location: - Is the case near an investigator's home? In his area of responsibility? Can he make it to court that day? Is he familiar with the area where the case is located? Does he have contacts with Police or any federal agencies of special interest?

3) The special qualities or skills of the Investigator: - Does it involve physical labor or needs? Did he previously apprehend or handle the case? Is it a pick-pocket, shop-lifter, prostitute, homosexual, racketeer, or other special type of criminal which requires special skills, language, or other techniques and abilities?

We can clearly see from the above the vagaries of chance enter the picture for many assignments, as well as the overload itself, and the special skills of the investigator. Further, the Immigration and Naturalization Service insists that any alien who makes

application for special relief, entry, citizenship, or other adjudicative process, who has ever been arrested for any reason whatsoever, must have a complete background and character investigation conducted. These investigations without exception are assigned to investigators in the criminal area. These cases are distributed by the supervisor according to the pending case-load of the personnel in the unit, the geographical location of the subject, and the availability of the investigator. All are assigned, and no cases are held in abeyance, regardless of an investigator's present case-load, or the complexity or importance of any case he is carrying. Some of these routine investigations of applicants cannot be touched for months due to sheer volume of case-work, but they remain the responsibility of the investigator, and as opportunity in his work schedule permits, he must take certain preliminary action on each case in turn.

So we see another instance where the Civil Service Commission and its Bureau of Inspection, through its audits, has failed to comprehend these special factors which must be evaluated and examined in the light of the standards, to determine whether or not the mixed-grade rule may be justly applied, or whether a higher grade would be commensurate in a particular case.

Our previous discussion logically leads to another point. Turning to page 20, IN THE POSITION STANDARDS at the top of the page, we read the following:

"No question of mixed-grades need be raised where the principal duties are also paramount or preponderant from the standpoint of influence or weight in the job evaluation and grade classification.

Sometimes however a mixed-grade position may involve a set of duties and responsibilities or a task which although enhancing the relative value of the job and paramount in influence or weight does not consume a majority of the employee's time. In that event the position may be classified on that basis."

The standards then point out additional factors to be considered in determining whether or not there are paramount or preponderant duties which occupy a substantial portion of an employee's time, and whether or not they are regular or recurrent, and not of an emergent, infrequent, incidental, or temporary nature. We believe that the Civil Service Commission in its audits and considerations has not explored this most essential factor in appraising the qualifications of many investigators in New York.*

For instance, we call the attention of the Bureau of Inspections to the specific, paramount, and preponderant duties performed by all of the appellants who still await a decision on their request for re-consideration. It is on their behalf that this report has been prepared and submitted. We entreat the Bureau of Inspections to now determine whether or not these investigators are involved to a preponderant and paramount degree, in duties that make them eligible for the requested higher classification.

We welcome an opportunity to furnish any additional information to substantiate these claims. However, we believe the resumes have pointed out many of these paramount and preponderant duties and skills.

This discussion has been rather lengthy because our argument concerned a number of important facts. To recapitulate the salient points which should merit your consideration.

1) - The INS in New York has, since 1959, created a deliberate overload of assigned cases, which make evaluation of the work inconclusive, since through sheer volume it lowers the percentum average of higher-level cases out of the total case-load an investigator is handling. This dilution in overall stature of an investigator's caseload is attributable to some extent to a shortage of personnel, and is aggravated by refusal of management to channel GS-12 work into definitive positions. The INS chooses to spread all the GS-12 work among all the GS-11s thereby muting all appeals.

2) - The Mixed-Grade rule application was established for normal caseloads, under normal working conditions, and was not intended to be applied to assist management in thwarting its employees who seek proper recognition for the level of the work

that they perform. This shabby subterfuge of management is most unrealistic and discriminatory.

3) - In almost every instance, the GS-11 investigators requesting re-classification are possessed of demonstrated skills and special qualities, acquired by them through long experience, are utilized to the utmost degree by management in the performance of their paramount and preponderant duties. The Position Classification Standards allow for the classification of grade levels on the basis of substantial work being done in these paramount and predonderant duties. In this instance, the Mixed-Grade rule does not apply since this is an exception to it as set out in the Position Classification Standards.

4) While the Civil Service Commission applied the majority rule (Mixed-Grade) to New York District Investigators, the Immigration and Naturalization Service applied more liberal guidelines and established GS-12 positions based on anticipated need, and not on past performance. The anticipated need in New York, based o volume of present pending cases, calls for the establishment of many more GS-12 positions. The appelants herein are well qualified for such positions. The Civil Service Commission can create the higher-grade openings for these competent appelants on the precedent established by INS in dealing with the investigators in California.

We have presented the foregoing justification for re-classification

appeal, to highlight some of the factors which the Bureau of Inspections has failed to take into consideration in its deliberations concerning the instant cases.

We respectfully request that the audits be reopened and that these appeals be carefully reexamined in the light of the material contained in this report. We would appreciate a prompt re-consideration, evaluation, and an official notice of any action taken.

John D.Glasheen, Chief
Classification Appeals Office
United States Civil Service
Washington, D.C. 20415

Dear Mr. Glasheen,

I have today examined the Appeal File which contained the information compiled by the CSC office here in New York at the time of my site audit in 1966. As you know, presently your office is considering additional information I have forwarded in asking for reconsideration.

My examination of the Appeal File as it was presented to me, revealed a surprise to me at what was not contained in it as well as to what it also contained. At the time of my inspection of the file, I also had an opportunity to converse with and ask questions of, Mr. Samuel Friedman who conducted the site audit and takes responsibility for the decision.

The Appeal File is in itself a very brief and shallow compilation of what represents facts upon which my decision is issued and I found in the file no conclusions of the grade level of any cases either that Mr. Friedman reviewed or had been completed by me; or did I find any recording of any hours I might have devoted to any case. On inquiring of Mr. Friedman of how he concluded that:

"we did not find that they(cases of GS-12 level) occupied a majority of your time"

Mr. Friedman replied that it was based on his opinion after his audit and that he did not remember whether or not:

1- He asked for past cases and hours spent on investigations.
2- He attempted to compute this information
3- if he spoke to my supervisor, or not, about my activity or hours
4-whether or not he had any notes as to discussions with supervisors
5- whether or not the typed synopsis in the file is a complete and comprehensive synopsis of his notes at time of audit

I will say this to you now. The Appeal File is no indication of the level of performance of my work or of the hours devoted to cases. I fail to see how any responsible classification officer could conclude any fact or decision of my grade level performance, from this Appeal file.

I did observe that in the typed "Analysis and Evaluation", it stated:

" Although the liason work and responsibility for representing the INS in a large geographical area adds considerable stature to the position, we believe that it is not sufficient to warrant a higher grade. "

I inquired of Mr. Friedman whether or not the combination of GS-12 work and Gs-12 liason was not sufficient to qualify me , as he had done in another successful appellants' case, but he replied, his opinion was no. As to which of my cases he found to be GS-12 level and which not, he could not decide from the Appeal File which were and which wern't. He did state that he did not believe Interpol cases were GS-12 level and that he was

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not certain that the Nassau County Vice Investigation of 2½ years was GS-12 work; or that prostitution or vice were delicate subjects; and [illegible] if these same subjects were matters affecting the social welfare of the nation or its security.

I have discussed my experience of today only to point out to you that I believe you must be apprised of some final facts pertaining to my investigative activity and to the Immigration Investigator assigned to Special Investigations, Criminal, Immoral, Narcotic and Racketeer groups. Mr. Friedman in his audit and study failed to comprehend my role or my duties in this unit of the New York Office or to attempt to determine the extent of performance, level-wise or time-wise. Since I have forwarded my time-wise activity to you, I believe that I had better re-state my opinions of the GS-12 level of work, I believe, I continuosly perform at.

My unit of the Special Investigations at New York is designated CIN. As much as the INS hates to admit it, the unit is specialized to a large extent. Specialization of investigator skills and activities exists and is utilized by two main basis--either by the subject matter of the assignment or the geographical area of the assignment or both. Thusly, a delicate or complex or multiple case involving a homosexual or a lesbian will in almost every instance be assigned to Investigator Earl Swift, who has the experience, tact, and knowledge to apply the techniques necessary for investigation and adjudication. A spanish speaking alien suspected of using a false passport and part of a ring, will be investigated by Investigator Sena who has spent years in this work, understands the workings of these violators and in every instance can assure the proper enforcement of the law. An escaped Italian criminal believed living and working in an Italian speaking area of the City will be assigned to Investigator Jack Riccardi who has handled these cases for years, speaks fluent Italian, was raised in New York and has first hand knowledge of the methods of subterfuge to avoid arrest.

The investigation of a Vice Ring in Nassau County, New York which involves prostitution, procuring, and organized crime activity with aliens and citizens, is surely to be assigned to me, as it was in 1964. Here the consideration was not only the crime and allegations but the geographical area involved. The investigation involved many preliminaries; attempts to identify aliens involved by their nicknames or aliases; their residences; their prior residences, history or employment; interrogation at time of arrest in order to get information of the leaders and procurers and protectors of the racket; obtaining affidavits and sworn statements in order to prosecute, obtain Orders to Show Cause, or warrants of arrest; and many other vital investigative acts. It should be stated now that deportation is the harshest punishment aliens are faced with, and in order to deport prostitutes, pimps, homosexuals and lesbians, certain admissions must be obtained before the alien is charged. No greater skill or more delicate investigative technique is needed than to be able to gain a self-serving admission of these social taboos and perversions. I challenge any other Federal Investigative group to match this level of work and performance. Yet it is done daily in our group with utmost skill.

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When the suspects who were involved in this investigation were apprehended, our Central Office in Washington immediately made the Vice Case a reportable case, which meant that reports would have to be forwarded monthly to Washington and the Regional office in Burlington Vt..It also signified the importance of the investigations that had to be done and the Agency interest of the aliens involved. Before this investigation terminated, Cosa Nostra figures were involved; and there were two murders and one suicide; numerous public officials were involved including a judge, Federal official, newspaper editor and 2 political leaders. Four women prostitutes and one procuror were deported, and 11 other aliens were investigated with three prevented from imminent naturalization.

This investigation was of the GS-12 level because it involved many delicate issues i.e, married women as madams and whores; waiters, clerks, and repectable businessman with families, charged with procuring and living off the proceeds; and two prominent men who were covert homosexuals. Of course it had an impact on the nations social welfare because it involved organized crime and vice and the recruiting of the common housewife, in need of money, for the Kings operation. I do not think that Mr. Friedman will disagree that disintegration of the family is a social ill.

Of course the other multiple investigations I was involved in were also lengthy, complex, delicate type investigations which certainly affected our national economy and welfare because they involved narcotics, drugs, and all types of moral perversions and frauds. Here again, I was assigned the West Indian Vice and Drug Ring in 1964 because I am equipped by my knowledge of the Subject to investigate the charges and Subjects, even though it was not in the geographical area of my first responsibility. I spent some 16 months on this very complex and involved case forwarded to us by the State Department and Mr. Friedman was not impressed because the results were not spectacular. I believe you will agree, re-classification is a matter of level of performance not end results. Enforcement and control are not always accomplished by deportation or by prosecution.

The ques ion of the Cosa Nostra and Organized Crime Drive assignments are also worthy of mention. These cases are reportable and have been designated by the Attorney-General as priority items. The figures involved are all notable and prominent hoodlums and racketeers who are certainly threats to our social welfare and security. These persons are threats to all of our families and children and the INS is charged with doing all it can to control organized crime and vice. The attempts to denaturalize citizen racketeers and mobsters is perhaps our most important work and it cannot be denied that a high level of investigative skill and techniques is needed to de-naturalize a mobster. The GS-12 job description delineates the importance of this work under specific descriptions of the level, and under de-naturalization. Of course any one must agree that work designated as Top Priority Racketeer work assignments is GS-12 work by definition alone.

continued

I must comment to you on the Theresa Carillo case I have listed as a special Top Level Complex and Delicate case. I wish that you can see the case file which I have received again in order to pursue further facets of the case for the Trial Attorney. Here I have been working since November 1964 in an attempt to exclude a clever and enterprising young women who was part of an abortion ring which caused the death o a prominent young girl. The Trial Attorney is attempting to establish new Service precedent by the implimentation of new interpretations of the INS Laws which permits the government in excluding aliens who have "knowledge or were involved in the essential elements of a crime involving moral turpitude". This investigation by me, culminated in a series of lengthy official question and answer statements which attempted to show that although the police could not prosecute as an accessory before, during and after the fact, the INS could pin the guilt on her knowledge and actions as the same as conviction of the crime. This opens a whole new vista of INS Law interpretation which will allow us discretionary leeway in excluding undesireables. The GS-12 job description discusses cases of importance in their potential effects to Servicewide operations.

Rather then to bore you by discussing other cases, I do wish to point out perhaps the most important issue for you to consider. The deliberate, cunning and devious way the INS overburdens the CIN Investigator of the New York Office. All of the cases I have discussed above, including the many multiple ones, have been performed simultaneously with no less than 20 and sometimes30 other assignments, many complex, delicate, and top level also. There are no unassigned cases in our section and as fast as they come in they are assigned. If you are sick for any length of time they are parceled out among the remaining men. Presently I have at least 7 top level cases of the highest complexity and priority yet I carry a number of routine Naturalization character investigations of applicants who have had minor arrests and reside in my geographical area of responsibility. These have been assigned to me out of neccessity since there is no one else to do them and last week all investigators were told to drop all other work and close the routine applicant Citizenship cases as soon as possible.

Not only that, I am also expected to apprehend and investigate criminals of the dangerous type, alone in most instances, without regard to the proper procedures used by other Federal Investigators. I am also expected to make joint investigations and coordinate my reports with otner Agency investigators usually GS-12 or GS-13 who also use my reports and investigative results as the basis of their reports and actions. During the West Indian Vice and Drug Ring cases and the Jamaican Marijuana Ring cases, the State Department, Customs Bureau and Federal Narcotics Bureau together, did not do a days work, as compared to my hundreds of days. A review of the files will reveal copies of my reports to them and yet not one of theirs anywhere. The law says equal pay for equal work.

I have mentioned the above only to lead into another discussion of importance, mainly the question of the mixed grades. I believe that the CSC plays right into the devious employment policies of the INS by imposing the mixed grade rule. If you will be so kind to turn to page 25 and 26 of the CSC "Position-Classification Standards" you will read.

continued

" No question of mixed grades need be raised where principal duties are also paramount or preponderant from the standpoint of influence or weight of the job evaluation and grade classification.
Sometimes, however, a mixed-grade position may involve a set of duties and responsibilities or a task which, although enhancing the relative value of the job, and paramount in influence or weight, does not consume a majority of the employee's time. In that case, the position may be classified on that basis."

It goes on further- when employees basis is less than majority--
" .....the following conditions should be observed:
1- The duties and responsibilities serving as the basis for the grade decision are paramount in influence or weight, occupy a substantial portion of the employees working time, are a regular or recurring part of the job, and are not of an emergency, infrequent, incidental or temporary nature.
2- They are so different from other duties and responsibilities as to require materially higher qualifications, which are, or will be, reflected in the qualification standards used in recruiting, testing, and selection. "

Mr. Glasheen, as I see it, there is no basis for the invoking of the mixed-grade designation for Immigration Investigators. The CSC Standards I have quoted above are clear as to when not to use mixed grade applications. The INS Administration deliberately creates a situation of not creating a GS-12 position to do the GS-12 level work but chooses instead to spread the GS-12 level work among 16 to 20 men so that none can qualify under a mixed grade application. In fact since 1959 when the GS-12 job was created the INS states that no GS-12 work is ever encountered! A few months ago the Regional Director made a survey in New York of the CIN cases in the past year of GS-12 level and found only one! Yet even Mr. Friedman informed all of the appellants that they had completed GS-12 level work during the audit year, 1965-66. Can we be in the same government? I assure you that there have been hundreds of GS-12 cases.

I conclude by stating to you that you are involved in a struggle between career employees who ask for their proper grade classifications and a Federal Agency who deliberately, maliciously and dishonestly uses every known device to prevent implimentation of its' own job standards. We must then turn to you, the Civil Service Commission, for an impartial evaluation of the issues. The issue is complex and the understanding of the INS Investigators' duties is diversified and difficult to comprehend, even for CSC auditors. I hope I have supplied you with enough data for you to perceive my level of competence but I am at your disposal for personal interview anywhere you name, at any time. My thanks for your patience and consideration and I hope I shall receive prompt consideration of my appeal.

Very truly yours,

Edward Kavazanjian

ICA:APP

27

JUN 9 1967

Personal
Mr. Edward Kavazanjian
Immigration and Naturalization
Service
20 West Broadway
New York, New York 10007

Dear Mr. Kavazanjian:

We have completed our review of your position classification appeal which was denied by our New York Region.

Our study included careful consideration of the arguments presented in support of your request for reconsideration and the file developed by the New York Region on the case, as well as discussion of your work with supervisory personnel in your organization.

We find that your position warrants classification at the GS-12 level. Accordingly, we are certifying the position to the Immigration and Naturalization Service for such classification.

Sincerely yours,

John D. Glasheen
Chief, Classification
Appeals Office

ICA:JDGlasheen:yl 6-8-67

JUN 1967

APPEAL-TEMP.

A-431

29

February 16,1967

TO: U.S. Civil Service Commission
Washington, D.C.

FROM: Edward Kavazanjian, Investigator, GS-11,
USINS, New York, New York

SUBJECT: Decision of Appeal from NYC Region,U.S. Civil Service,
New York, NY--Feb.1,1967

On Feb. 1,1967 I was informed by Mr. L.H.Baer, Director, New York Region, US Civil Service, that I am properly classified as a GS-11 General Investigator of the Immigration and Naturalization Service.

The decision states that:

> "although some of your cases involve elements found at the GS-12 level, e.g., complexity,delicacy, and impact on the national economy,social welfare,or security, we did not find that they occupied a majority(my underline) of your time."

That decision was arrived at after a site audit conducted by Mr. Samuel Friedman of your New York Office who interviewed me, reviewed my present caseload and was made aware of other special qualities also associated with my area of responsibility as an investigator assigned to Criminal,Immoral, Narcotic and Racketeer category investigations of the New York District Office of the INS. The decision above is not based on any information that was communicated to Mr.Friedman or was available to him. It completely disregarded the special qualities made known to him and which are unique to my particular liason duties performed for the Immigration and Naturalization Service daily. I find it shocking and discouraging that the substantiated and indisputable facts of my job performance level of competence are incompletly recorded and weighed. A grave injustice has been inflicted upon me and I now wish to authenticate all of claim to the appeal that I should be re-classified.

At the inception of the audits, as National Delegate of my union, I met with Mr. Friedman and other officers of our union, and he informed us that if a man was found to be doing 25% GS-12 level work he would qualify for reclassification. These guide-lines were communicated to us for dissemination to the other appellants of the union. At no time was it stated that a majority of the work performed be of the GS-12 level. However,I perform almost 100% at the GS-12 level and I shall substantiate this statement by facts and figures.

I am assigned to the Special Investigations Section of the INS office, Criminal,Immoral,Narcotic and Racketeer categories. The New York District encompasses the geographical area of Nassau and Suffolk County, and as a resident all my life in Nassau County and prior employment

as a US Treasury Agent there, I have been given these two Counties as an area of responsibility to perform meaningful liason in order to facilitate the enforcement of the INS Laws. These two counties are inhabitated by over 2 million people and the two County Police Departments are among the ten largest in the ation. I communicated the following information to Mr. Friedman which apparently has not been recognized or taken into account for my evaluation.

I PERFORM:

1- The servicing and maintenance of a uniform reporting system for alien arrests in either County or inmates of either County Jail. Answering all special inquiries from the respective Identification Bureaus pertaining to FBI sheets, criminal identification sheets, photos, fingerprint records, warrants, wanted notices or cancellations, alien statuses, and any other questions of mutual interest.

2--Continuing daily or weekly liason visits and conferences with Intelligence Sections of both departments for the exchange of information pertaining to International Criminals, Top Priority Racketeers, persons of interest to the Attorney Generals Organized Crime Drive, Perverts of all kinds, addicts, gamblers, and other notorious criminals.

3- Continuing daily or weekly liason with the special headquarters squads of both County Departments in order to coordinate INS action and information with them. Included are the Vice and Gabling Squads, Burglary and Robbery Squads, Auto, Warrant and Homicide Squads. Photos, addresses and locations are exchanged and I am granted access to all confidential files, records and informations by personal permission of both Commissioners of Police and Chief of Detectives.

4- Iam a lecturer at the Nassau County Police Academy for both the Recruit and Officer Training Courses, lecturing bi-weekly and I have been commended by the Commissioner to my District Director.

5- I have been designated by both County Directors of Probation as liason representative for purposes of alien subjects investigated by them. I am the only Federal Oficer (granted permission by the Presiding Judge of both counties) who has access to probation reports, pre-sentence evaluations and recommendations, and psychiatric reports, as well as youthful offender records. I am officially referred by that department to consult sentencing judges to evaluate INS policy and discretion. I have consulted in 1966 with sentencing judges on at least 20 occasions involving serious crimes or prominent aliens and there is no room here to discuss them.

6- I am a member of the Nassau County Youth board since 1965 and until 1969. This board regulates youth activities of all types.

7- I am liason representative to the District Attorney's of both Counties and obtain information on numerous occasions yearly for the INS Central Office or Regional Office, the Attorney General, and other Federal Agencies. I confer with those officials in the

indictment, prosecution and sentencing of aliens to insure the adequate representation and enforcement of INS policies. The specific occasions in 1966 that I represented the INS at those offices are too numerous to record ~~at~~, at this time.

8- I have made INS representations to the Commissioners of Commerce and Labor of both Counties on numerous occasions for purposes of obtaining information pertaining to alien employment, operation of new industry or labor demand and other items of mutual interest.

The list of specific actions that I have performed, many on assigned investigations and many of an unassigned nature, are too numerous to list but have been recorded in my official diaries. My official weekly investigational activity reports for 1966 reveal that I reported a total of 416 hours liason work, all of it performed in Nassau and Suffolk County New York.

Pertaining to my assigned cases, I am usually assigned 25 to 30 as a constant case load and with 5 to 10 cases of a special connotation or of a multiple issue which are also lengthy, complex, and difficult. Some are of a two or three year duration and are in a state of constant activity and litigation. Some are International Criminals wanted, or of interest to Interpol; some are Top Priority Racketeers; members of Vice or Narcotic Rings; or are of interest to other Federal Agencies. During 1966 I investigated the following cases and the hours listed are from the official District records of noteworthy special cases.

1- Andrea Bussa- A14 354 943- Interpol Fugitive-wanted by Italian Police for attempted murder and assault-Mafia member. Entered US illegally with other fugitives. Apprehended single-handed after 6 months investigation without photo or description. Commendation from Regional Director, Italian Police and $100.00 Special Act Award from INS. Deported under armed guard. 47 reported hours with 101 hours travel.

2- Giulio Sardo- A12 147 943- Top Priority Racketeer-Operator of largest Bust Out Crap games in USA for 20 years. Nationwide arrests claimed tobe US Citizen. Helped establish alienage and deportability. Now attempting to impeach claim to good character. Interviewed cohorts, victims, police officers, hotel operators etc,: obtained records and information. Investigation over three years entailed 9 separate assignments and during 1966 97 hours expended on all phases with 184 hours of travel.

3- Gaspare Magaddino- A13 964 002- International Criminal & Racketeer wanted by INS, FBI, Canadian Mounties, Interpol, Italian Police and Nassau County police. Cousin and conspirator of Joe Bananas an other Cosa Nostra chiefs. On trial presently in Italy in absentia. Believed to be in USA or Canada and wanted for murder by Nassau Police, NY. Over 2 years spent on investigation currently assigned and coordinated with Buffalo, Montreal, Rome and Nassau Police Dept. In 1966 102 hours spent on all phases with 66 hours of travel added.

continued 32

4- West Indian Vice and Drug Ring-Vincent Alexander et al-A13 723 415 State Dept.Informant-11 Subjects involved in Vice,use of Drugs and Aphrodisiacs. Also Visa and marriage frauds and the use of Voodoo and West Indian terror tactics. Involved cooperation with Customs Bureau Post Office, Bureau of Narcotics and NYC Police. Surveillance, interviews and overseas investigations. 16 month investigation which involved in 1966 80 hours of investigation and 66 hours of travel.

5- Jamaican Marijuana Ring-Ras Tafara Cult- Tony Pabarue et al State Department request of students involved in marijuana use and in illegal entry to the USA. Joint Customs and NYC Police investigation. Surveillance, interviews, attempts to locate illegal aliens and visa frauds. Two students located and acted against.State Department advised of future frauds and informants reliability. Overseas investigations. Total of 107 hours recorded officially for this case with 112 travel hours

6- Giuseppe DeVito A13 749 957- Mastermind of Nassau County Barber Shop Extortion and Bomb plot. Bootlegger, tax-evader and cohort of Cosa Nostra chiefs of Long Island. Posed as US Citizen since illegal entry in 1935. Original investigation initiated on my own suspicion and after 8 month investigation in 1965 Subject conceded alienage and deportability. During 1966 coordinated actions with Nassau County District Attorney and special Attorney General for Organized Crime for Brooklyn. Subject presently co-operating with FBI and Police at my request. 33 hours devoted in 1966.

7- Teresa Carillo- A11 271 326- Paramour and alleged co-conspirator of convicted abortionist Harvey Lothringer. Investigation made at request of President Johnson and Commissioner of INS.Subject fled to France and alleged to have aided Doctor in dismembering deceased girl. Two year investigation and numerous hearings in attempt to exclude and deport. Interrogations, sworn statements, visits to state prisons,trial attorney conferences and review of grand jury minutes and prosecutors files. During 1966 32 investigation hours and 78 hours travel.

8- Rosemarie Caputo A14 385 774- Professional shoplifter and thief. Posed as US Citizen for 30 years and on occasion of 7 arrests. Wife of Cosa Nostra boss Leonard Castore. Attempted to use false Baptism Certificate and false family data. Made local checks, investigations. interrogation and overseas investigations. Established identity and alienage with subsequent deportability after 70 hours investigation in 1966.

9- Cuban Burglary Ring-Nassau County New York - During 1965 and 1965 a joint investigation of 12 individuals arrested by Nassau Police and in members were in a conspiracy to burglarize certain areas. Exchanged information with NYC Police,FBI, Miami Police and INS offices in Newark, N.J. and Miami. Action taken against 7 Cuban burglars by administrative action of this office and Nassau County Judges who were advised of inability to deport Cubans. 38 hours alloted to this with 108 hours travel

10- Philip Inzerillo-A8 494 071 Procuror, white slaver, Hijacker Investigation with Nassau County Police, Port of New York Authority Police, District Attorney. Investigation to determine ascertainability and involvement with hijacking ring. Subject also ran disorderly house for under age girls. Obtained proof of living off prostitutes and other deportable charges as well as statutory rape. Brief [illegible] 35 hours with 40 hours of travel alloted to this subject.

A recapitulation of the hours of actual investigational time devoted to the above cases in 1966, reveals a total of 627 hours of actual investigational time out of 1,800 hours of total time worked. However, there were also the 416 hours spent on liason and that leaves approximately 800 hours for other investigations, training and unrelated investigational matters.

Presently I am assigned 23 separate investigations among which are the following GS-12 level cases:

1- Gaspare Magaddino-A13 964 002-International Criminal(see above)
2- Rosario Giammona-All 550 633- Interpol and Italian Police fugitive. Escaped after life sentence for homicide-entered illegally, suspected in Brooklyn. Previously investigated by FBI who could not.
3- Amparo Llorente-Munoz- A14 839 952- Suspected traffiker in Narcotics. Investigation on basis of Air Force OSI information. Also possible visa fraud and investigation in conjunction with US Customs. Spanish consulate involved as well as overseas investigations.
4- Osvaldo Cosucci - A14 857 441- Interpol and Italian Police case. Mafia lieutenant wanted for fraud, assault, criminal association. Suspected involved in illegal activities here. Wanted for deport.
5- Pedro Mirando-Carrera-All 579 561- Narcotic violator deported on prior occasions now in New York. Allegedly extorting money from Cubans to send to relatives in Cuba. Also being investigated by the FBI for security. May be part of a ring operating nationwide.
6- Sinclair Hall -All 050 292- International Check forger wanted in Nassau County and Bermuda for seven phony checks. Involved also in construction frauds. Deported twice previously. Wanted now.
7- Giuseppe Prochilo- A10 918 094- Arsonist and former Italian Criminal. Obtained Naturalization by fraud. Arrested with father & brother in Dec. 1966 on Arson and conspiracy. Alleged member of a group of aliens involved in law violations. Suffolk police interest.

I have presented the preceding evidence of my level of performance and competency only to demonstrate to you the gross error in the evaluation and decision I have received. I do not know where this error occurred or who was responsible for this improper prodedure that results in such an absolutely unfounded conclusion that a MAJORITY of my work is not of the GS-12 level of performance as it exists in the INS standard. All of the facts and figures I have related here are easily substantiated.

I therefore respectfully request that the decision be rescinded and the proper evaluation of my grade level performance be made.

Very truly,

Edward Kavazanjian

A-436

Edward Kavazanjian
79 Dalton Street
Long Beach, New York 11561

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March 20,1967

Mr. John D. Glasheen
Chief, Classification Appeals
United States Civil Service Commission
Bureau of Inspections
Washington, D,C. 20415

Dear Mr. Glasheen:

I am in receipt of your letter of March 9,1967 requesting that I forward to you certain information needed for your reconsideration. I have attached a detailed resume and synopsis of the specific casework I have been engaged in for the calendar year of 1966.

I have also taken the liberty to remark briefly on certain items in order that you may have a better frame of reference in which to evaluate my work. I have also taken the liberty to attach a number of items of interest and which I hope will also be of an aid to your evaluation.

On your study of this added information I am now submitting, if you believe any other more specific data is needed I shall be only to happy to comply as you see fit. I am appreciative of your efforts on my behalf and I await your decision.

Sincerely yours,

Edward Kavazanjian
Investigator USINS

A-437

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING NEW YORK, NEW JERSEY, PUERTO RICO AND THE VIRGIN ISLANDS

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10007

Address:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
FEDERAL BUILDING, 26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

USA SDNY - 476
(E.D. 4-25-71)

Def
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
F id

FPI-MI—2-2-73 10M 6755

Paul J. Curran, Esq.
United States Attorney
Attn: Taggart D. Adams
Assistant United States Attorney
United States Courthouse
Foley Square
New York, New York 10007

Re: Kavazanjian, et al. v. U.S. Immigration and Naturalization Service, et al.,
69 Civ. 3074

Dear Mr. Curran:

This transmits a duplicate set of audit notes in the case of Edward Kavazanjian and Jack Lazarus in response to Mr. Adams' request.

The enclosed set of notes supplements the set hand carried to your office by Mr. Morris Glazer of this office on May 7, 1974.

Sincerely yours,

George J. McQuoid

George J. McQuoid
Regional Director

Enclosures

7/26/66

Edward Kavazanjian - General Investigations
GS-11
C I N unit in Spec. Invest -

chief Spec Invest
~~Supvr~~, Mr. Edwards
~~Asst~~ Mr. Forbes
chief CIN

Came here in 1952 - previously stationed San Diego
Designated to establish liaison in Fresno & Bakersfield. General office policy is to have investigator build up liaison in a particular area. Has liaison with Fresno & Bakersfield police depts, probation depts - district attys, judges of county & district courts - instructs judges on kind of sentence to be given so INS can take steps to deport her - If less than a year, alien cannot be deported for criminal actions - Deportation is worst penalty - Instructs police on immigration documentation - marking arrests of aliens, how to report. Police call on arrest of alien and immigrant goes to check out status - rap sheet, clothing, name, check documents, veracity of statements; it is a felony to make a false claim of U.S. citizenship - when several charges are pending in different places, talks with judges in areas where transgression is done

arrows to suspected members as to relation & jurisdiction with felony charge as deportation can be instituted after prison sentence - by / skeptical - got her behind bars -

handles naturalization cases - surrogate with intelligence agents of police dept -

Has revocation cases on top priority racketeers - showing that citizenship was obtained thru fraud -

Atty Civil Liberties Section which goes to all enforcement agencies - which checks the... - D.A.'s checks are they citizens or aliens, how did they get citizenship. These listed are assigned to district in geographical area - 508 case to start with - CIA - works up - checks citizenship - checks crimes & questions on file for application - checks witnesses' replies, residence, interviews, arrest record - Difficult to revoke citizenship - did he have a criminal record before naturalization - if he was a known criminal, get denied criminal record - Can be committed court to revoke - thru U.S. Atty - Atty General office - Murdock, it is presumed if didn't have an undesirable alien charge ... to start with because of criminal record ...

Gets info from rep in Cuba on owners of sugar mills. Sends leads to the owners reps who are US-12. Documents here can place own comments in his report, his opinion, judgment, recommendation re hold deportation or permit to leave a citizen. recommend waiver based on humane reasons. Recommendations go thru channels, are usually accepted. Congress must approve suspension of deportation - by a vote on list submitted by Atty Gen. Try to build up a case on every racketeer listed. Top priority racketeers - O.C. 103 cases referred by to central + regional offices often completion - from simple arrest for shoplifting can develop into a deportation case of individual, common law husband, legal husband - proving case - lawyer involved - probably living in open union - Interview a sailor who stowed away + says he bought phony documents + says 7 others did so - Case to a conspiracy case. Possible prostitute ring - although Nassau Co. couldn't convict for prostitution - only on disorderly conduct - Government has asked to get proof that they were soliciting for or practicing to deport for

Limited reasons - Supervisor is Mr. Farley assigns cases
Supervisor reviews report - contacts for details
Investigator general - no leads given no working under
other than to check everything.

Every month, every investigator writes up form G-167
listing every case pending - status + what will be
done, what is to be done - Supervisor reviews +
writes comments - reviews about 300 case reports
on the G-167's each month. Suggests approaches,
or closing out of case, or apply for short cases etc.
(Farley is a GS-11 asst to Farley who reviews the
G-167 cases of GS-9 investigators)
carries 31 cases - closes about 100 cases a
year - Does record searches in Nassau + Suffolk -
death certs, marriage certs. - about 1 hr a day.

Auxiliaries - explore all leads on top person of
racketeer case from Suffolk - interpret cases -
handled 3 big ones during the last 3 years.
Get all info to send upstairs to get racketeer case
complex + valuable for getting necessary proof to
deport - Fleeting cases gone overseas. Big part
gambling in business - built up file cases -

all kinds of criminal cases - apprehends -
had case of woman (Cuban) with FBI, take out of
aborted patient, did under h-m - Presidential ins

multiple case involving 5 Jamaicans - complicity
coordinating Narcotics, Customs other enforcement
agencies - importing marijuana for use of a cult

Heavy workload - no segregation of cases - 9 s may
have cases of great import & impact - many
cases ended short of ultimate conclusion because of
workload -
Supervisory pattern precludes close attention to cases -
assignments by difficulty - not doing enough - hazards
because one man goes out - should have two men
on apprehending

Case Review - Bonsa, Andrew Deportation -
Principal notification regarding research - contact officials -
checked mail, utility company, Inquiries of neighbors, re
photos, FBI info - investigation, deception investigation made
to apprehend him - deported. Considered the "boss" of the
Ghanian criminal underworld. Investigator commended for his

[illegible] crime ring prostitution!

Burlington Office (Exec. Dep. Reg Comm. Operations requested deportation of certain leads.

[illegible] convicted only on disorderly conduct. Alien officials wanted proof for deportation to prove prostitution although not convicted. Trade manoni pleaded guilty of disorderly conduct sentence suspended. ~~Voluntary dep. ord.~~ Case returned from Burlington for reopening & further investigation. Spelled out leads to follow.

Queen of the shoplifters - Caputo - difficult tracing origin, name, birth info - long record.

Lardo - top priority racketeer - gambler

Kern (Obrien) revocation action for adultery - Holden, etc.] proving the facts, much digging required -

Gelson - ring dealing [illegible] - investigation based on stale kept memo that a group of East Indians, Orientals, entered the U.S. and engaged in prostitution, peddling narcotics & drugs, psychedelics. Interlocked investigation with Customs, Narcotics,

PRESENT CASE LOAD

1. FRANK MANNONI - A-12 084 261
2. GRACE RIESEL - A-7 426 538
3. ERNEST SZERDI - A-10 978 794
4. THERESA LILLEY - A-7 067 083

} PROSTITUTES + PROCURERS
Nassau County Vice Investigation Reportable Cases

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5) FINSLEY TAYLOR - A-14 350 905
6) PETER WAUGH A-13 236 850
7) DENNIS HAMMOND A-14 395 659
8) TONY PABARUE A-14 395 660
9) DENNIS LARMAN A-12 784 527

} 5 JAMAICANS ACCUSED OF MARIJUANA CULT ACTIVITIES w/ US Customs Narcotics & NYC Police

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10) MARIA SCAVONE (aka Rose Cerato) - A-14 385 774 - Professional Shoplifter overseas & interdistrict activity.
11) Peter Metzger - A-8 299 125 - Forger, Burglar - Deportation To Germ
12) Theodore Jungblood - A-14 909 118 - embezzled $20,000 on 9/8/66 - wanted by INTERPOL.
13) MARCIA SMITH - A 13 224 254 - Convicted of Sale Abortion wanted for deport. in transit.
14) GERMAN BLANCO - A-14 783 514 - Convicted shoplifter absconded from Idlewild
15) John Bizuni - A 10 055 139 - Applicant for Citizenship has arrest for theft. car
16) George Bagliesi - A-1 472 909 - Applicant for Suspension of Deportation - armed robb.
17) Halil Temaku - A-12 276 053 - 2 convictions for Criminal Larceny - Deportee
18) Mike ADAMO - C-4 822 261 - Major Racketeer - DeNaturalization
19) Pietro Galletta C-2 851 261 - Major Racketeer DeNaturalization
20) Victor MASOTTO - A-14 802 005 - Major Racketeer - STATUS
21) Jos LAGANO - A 12 325 261 - Major Racketeer - STATUS (over)

(24) Jesus LACANO - A12325 261 - Motor Rocketeer - STATUS
(25) Nicolas CASTILLO - A14800456 - Motor Rocketeer - STATUS
(26) Vincent MANCANO - A-14802003 - Motor Rocketeer - STATUS
(27) TORBJORN OLSEN - A11580505 - SODOMY - 14 year boy - Deportation
(28) YVETTE ARIAS - A13753043 } Mother-Daughter - Deport
(29) NORMA ARIAS - A13834441 } Shoplifters
(30) Shiela WOOD A13235803 - PB Larceny - To be deported
became pregnant in jail

Also have charged to me 27 NASSAU-Suffolk Cases Awaiting Disposition by Courts or Bureau TO Determine IF-INVESTIGATIONAL.

Subject: Immigration and Naturalization Service

Re: Salvatore [illegible] Parisi

insure an open trial by jury in which the accused
knows with [illegible] that action will be accomplished -
To revoke naturalization of a Mafia figure - 507 case
Paul Iciaia naturalized in 1939 - check on
of naturalization, affidavit, statements - Does
the individual from Messina where he was a barber,
then came to NY in 38 + opened up Paul's Cafe
he was in NY a Messina on his - Chicago Canada
[illegible] record of arrest for attempted murder - picked
Palermo apt again + [illegible] record was of two arrests
for burglary during the period before naturalization -
Must not let word out to Iciaia that he is being
investigated. Law provides for entry gotten in the
period prior to the naturalization. Court will not upset
it - frivolous grounds - denial does not prove
case - no opposition. Did in other cases, such
to be [illegible]

Angelo Abruzzo - Mafia [illegible] by Court -
[illegible] 1921. [illegible]

[illegible] biggest problem getting people to talk — fear of their lives. Naturalized in 1940. 507 case

507 —

Struffer. H Interpol stopped off D/S when he continues trips from U.S. to Surinam — has taken out all smuggling of precious gems, gold, silver, narcotics — has an American company — citizen — called Customs asked they call Siri Lights. To get Interpol money + DO work together — very evasive in naturalization proceedings or whether he spent enough time in U.S. prior to naturalization because of his continuous trips.

Compiled 12/65 — will provide surveillance continuously Interpol smuggling ring — very difficult to do because of the intelligence of the principals.

Todd Bozeman - chief mate on ship - attempted naturalization - Islamic Center applicant as not giving, neither is DNS long record but nothing on the statutory grounds Have to enroll a waiver for moral turpitude

Katy Tompkins -
conducting joint investigation with FBI - Expert surveillance of FBI - visits Hufstedler Trial was of KZ, one - identified as Communist Party - National security case - will have to fact for to get her deported to have her leave voluntarily

Civil Rights - petition for citizenship - complaint from husband that he is prejudiced - denied but the complains got his record - Last result in complaints - Naturalization Petition - Communist Party in Argentina - accused illegal practices - Complaint in Argentina a bag stapled with the citizenship petition civil complaint in the office - Nothing - various bills presented by complainant

Anthony Anastasia [illegible] foreman
naturalized [illegible] [illegible] log work, getting
info. [illegible] wants to study case. called
Cayuga - [illegible] - [illegible] - white to
effect it with [illegible] not to explain -
Completed full investigation but case was
dropped at orders from Chief - to go back
to find more info against Anastasia. Let go by
his in-laws.

Spends about 75% of time on prevention,
recidivist cases -

No spec. instructions with cases -
Files 167 every month ~~Lists~~ cases which supervisor
reviews superficially - Supervisor has to send
a rep every report leaves for CO Stamp
time & rec'd. All pending cases reported
Daily cases to supervisor for advice - was handled
mostly - Occasionally discuss case with Chief.
Volume - Some 35? Files 167 cases to be
opened -

Re: Rebuttal

"...is not wise to write this matter at this time." "...have taken a different treatment in top of attitude, business knowledge means used, again to eliminate to discuss matter, etc."

A-451

UNITED STATES CIVIL SERVICE COMMISS

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10007

IN REPLY PLEASE REFER TO

PVR:SP:ED

YOUR REFERENCE

NOV 8 1968

ADDRESS:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
FEDERAL BUILDING, 26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

Mr. Alexander Plasterstein
231 Echo Place
Bronx, New York 10457

Dear Mr. Plasterstein:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Although your appeal was submitted as one of a group we have considered it individually and this letter is responsive to your particular situation.

Our decision is based on a review of the material submitted by you and your agency, consideration of the information secured during a work audit of your position, and a comparison of your duties and responsibilities against the Civil Service Commission's standards and the supplement to the standards of the Immigration and Naturalization Service for the General Investigating Series, GS-1810.

Essentially, the grade of an investigator's position depends on the level of difficulty of the cases assigned and their scope. The grade is not determined by the ability of an investigator to carry out more difficult assignments, or his length of service. We mention these points because they have been raised by some investigators during our discussions with them. We are commenting also on the complaint of some of the appellants with whom you are associated that the agency attempts to assign the more difficult and complex cases considered to be of GS-12 calibre (where it can be determined by supervisors) to GS-12 investigators and that when a case assigned to a GS-11 investigator appears to involve fraud or subversive activity or gives indication of developing into a GS-12 calibre case, it is taken away and assigned to a GS-12 investigator.

Your agency has the right, which goes with the responsibility for managing its resources in mission accomplishment, to assign work as it deems best. In this connection management's continuing objective should be to have each position contain as much of its grade controlling responsibilities as possible considering the work situation. GS-12 investigators, to the fullest extent, should be utilized on GS-12 work.

Exhibit G.

The Civil Service Commission cannot dictate to your agency how it should organize its work or how it should make assignments to individual investigators. The Commission in its appellate capacity must limit its jurisdiction to determining the classification which results from the agency's decision on work organization and assignment. We determine the classification by assigning a grade to the principal duties and responsibilities: i.e., those that take up at least a majority of the employee's working time (at least 51 percent).

Our task in ruling on your appeal is to ascertain 1) the highest grade level of work assigned to you, and 2) the percentage of your working time which it occupies. This means that if you are performing GS-12 work your position will not be classified at that grade level unless it occupies a majority of your time. There are exceptions to this rule in certain situations such as you have pointed out in other district offices where it is not feasible to set up specialized positions at GS-12 to which available GS-12 work can be assigned. The exceptions do not negate the general rule stated above.

The criteria for classifying investigative assignments at the GS-12 level are described in the standards as follows: they are of the most complex and delicate nature; the issues involved have a grave impact on the national security; involve important political, social or similar implications; or persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case may be nationwide or particularly complex, or extremely important from the standpoint of potential effect on service-wide operations.

The fact that there may be congressional or central office interest in a particular case does not automatically place it in the GS-12 category. Neither is it placed in that category if the investigation includes interviews with members of a foreign mission or requires securing auxiliary information from an American consul overseas or a foreign consulate. The determining factor is still the character and complexity of the investigation and its broad implications.

Using your workload assignments for the last year we compared them against the above criteria. The majority of your cases during that period do not meet the GS-12 characteristics. Rather, they are more typical of the GS-11 or GS-9 grade levels. We refer particularly to marriage frauds involving one or a few individuals with no widespread conspiracy or third party ramifications; applications for naturalization or other benefits where neighborhood and other checks are made to verify references and other information where the applicants are neither key members of subversive organizations with influence and control over subversive activities in various key areas of the country, nor principals of well-organized underworld activities. Most orphan adoption cases are of the GS-9 level although some may have

characteristics of higher grades; and locating aliens whose departure has not been verified is usually a GS-9 level assignment unless the investigation presents some of the higher grade characteristics described above.

Among the cases which you have cited in support of your appeal, we consider the following to have some GS-12 characteristics: Canon USA, and International Data Processing Institute. In our judgment these did not occupy more than 20 percent of your investigative working time. We have considered also your trial attorney detail which you cite in support of a higher grade. Details to other positions cannot serve as a basis for classifying your official position. Details are of limited duration; at their expiration the employee returns to his official position; and less than a majority of time is spent on a detail.

We must conclude then that your duties and responsibilities do not meet the criteria in the standards for a GS-12 investigator and it is our decision that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

L. H. Baer
Regional Director

c.c Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

A-454

POSITION-CLASSIFICATION STANDARDS

For Positions Subject to the
CLASSIFICATION ACT OF 1949, AS AMENDED

UNITED STATES CIVIL SERVICE COMMISSION
BUREAU OF PROGRAMS AND STANDARDS
STANDARDS DIVISION

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1967

EXHIBIT H

conditions are specifically discussed or at least referred to in a standard they cannot be correctly classified. Rapid technological changes make the incidence of such misunderstanding all the more likely. Jobs within an occupation frequently vary so extensively throughout the government that it is impossible to reflect all of the combinations and permutations of duties and responsibilities in a standard.

The fact is that when certain features of a job clearly set it apart from the guidelines set forth in a standard it may be classified *on the basis of that very difference.* It need not be explicitly embraced by the standard to be correctly evaluated. It is worth repeating that the standard is a guide of judgment, not a substitute for it. Therefore, a job must be evaluated with the standard serving as a criterion, not necessarily as an all-embracing prescription.

This does not mean that such a job is invariably higher than those clearly reflected in the standard. Care must be exercised in assuring that classification decisions are in harmony with basic grade-level concepts in the standard being used and with those in related standards. Each grade level represents a band or range of duties and responsibilities. Differences between jobs are often assumed to imply grade differences when in fact they merely represent variation within a grade level or band.

E. Mixed-Grade Positions Under the Classification Act of 1949[2]

Introduction

The term "mixed-grade" refers to positions under the Classification Act of 1949 in which the work falls partly in one grade and partly in another.

Such positions raise two major questions of interest: (1) In a given organization unit, is the establishment or existence of such positions consistent with effective and economical administration, especially the conservation and utilization of manpower? and (2) How should the one appropriate grade for each such position be determined under the Classification Act of 1949?

Relation to Effective and Economical Administration

As stated in Bureau of the Budget Circular A-44 (issued jointly with the Civil Service Commission) each department and agency, as part of its continuing management improvement program, is

[2] This is a reprint of Departmental Circular No. 690, October 15, 1952, which superseded Departmental Circular No. 635, August 11, 1950.

responsible for designing and giving top priority to management improvements aimed at conservation and utilization of personnel. These may be revisions of organization structure, changes in work methods, redistribution of work assignments, and strengthening personnel management through more accurate and current position descriptions, improved position-classification, placement, training, and supervision.

One method of better use of available manpower is the constant matching or adjustment of the work to be done to the abilities and skills of employes available to do it. A principal objective is to make full use of the highest skills of employees, particularly if such skills are in scarce supply, as contrasted with work methods which confine the use of such skills to a small part of their working time.

Departments and agencies should accordingly examine carefully the overall work program and the individual work assignments in any organization unit where there are mixed-grade positions. It may be found, for example, that duties and responsibilities classifiable to the higher grades, and requiring the scarcer skills, are distributed among too many positions, contrary to the interests of conservation, utilization, and economy. Corrective action should be taken whenever this examination discloses a more economical and efficient way to organize.

Authority to correct ineffective distribution of work among individual employees, and to improve such distribution, is a general management power and usually is not vested in a personnel office or position-classification unit. Nevertheless, information obtained by the agency's classifiers may disclose that work is being organized and distributed ineffectively or uneconomically and may show better ways of organizing and distributing work. Consequently, the agency should provide means by which such information may be reported to the administrative officials who have the authority and responsibility for taking direct action and following through to achieve the desired results.

Classifying Mixed-Grade Positions Under the Classification Act of 1949

Only general guides can be offered because of the fact that mixed-grade positions occur under so many different circumstances.

In classifying the great majority of positions the principal du-

ties and responsibilities will govern; i. e., those that take up at least a majority of the employee's working time. No question of mixed grades need be raised where the principal duties are also paramount or preponderant from the standpoint of influence or weight in the job evaluation and grade classification.

Sometimes, however, a mixed-grade position may involve a set of duties and responsibilities or a task which, although enhancing the relative value of the job, and paramount in influence or weight, does not consume a majority of the employee's time. In that event, the position may be classified on that basis.

Since in such instances the basis for the grade is something less than a majority of the employee's working time, the following conditions should be observed:

1. The duties and responsibilities serving as the basis for the grade decision are paramount in influence or weight, occupy a substantial portion of the employee's working time, are a regular or recurring part of the job, and are not of an emergency, infrequent, incidental, or temporary nature.

2. They are so different from the other duties and responsibilities as to require materially higher qualifications, which are, or will be, reflected in the qualification standards used in recruiting, testing, and selection.

F. Interpretation of Grade-Structure

1. Interpretation of Classification Act of 1949, as Amended, With Respect to Grade-Level Ceilings for Former Subprofessional Series.

Under the Classification Act of 1923, as amended, the grade-level ceiling for the Subprofessional Service was SP-8. For subprofessional positions above that level, it was necessary to set up superstructure or so-called Section 4 series and to adopt a range of compensation to take care of such positions. The Comptroller General ruled that in such cases the symbol of the service and grade carrying the adopted range of compensation should be used, i. e., the "P" code symbol, since the work of such positions was related to professional work in the same field.

The Classification Act of 1949 combined the P, SP, and CAF Services into one General Schedule. However, the question arose as to whether the Classification Act of 1949 prescribed grade-level ceilings for former subprofessional series, and the following decision was made. The Civil Service Commission does not inter-

SUPPLEMENT TO THE POSITION CLASSIFICATION STANDARDS FOR THE GENERAL INVESTIGATING SERIES, GS-1810-0 FOR POSITIONS IN THE IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

This transmits an official supplement to the position classification standards for the General Investigating Series, GS-1810-0, dated June 1958. This supplement has been approved by the Standards Division, United States Civil Service Commission. These standards are effective immediately for classifying positions in the Immigration and Naturalization Service.

The attached standards are being released in this form because they concern positions in only one agency. They will not be included in a regular standards issuance. Distribution is being made within the agency and to appropriate Civil Service Commission offices.

EXHIBIT I

GS-1810-0 GENERAL INVESTIGATING SERIES

GS-1810-0

POSITION CLASSIFICATION STANDARDS FOR INVESTIGATOR POSITIONS IN THE IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE *

Coverage:

These standards specifically cover positions of nonsupervisory investigators in the Immigration and Naturalization Service of the Department of Justice. Trainee positions (GS-7) are not covered by these standards; they can be evaluated by application of the Grade Level Guides for classifying investigator positions, issued in June 1958.

Supervisory investigator positions will be classified in accordance with guides for the classification of positions involving supervision over work classified at two-grade intervals, to be issued by the Civil Service Commission.

EXCLUSIONS

Positions in the Immigration and Naturalization Service which are specifically excluded from the General Investigating Series, GS-1810-0, are:

(1) Positions which require as a primary responsibility and on a substantially full-time basis the representation of the Service in the presentation of cases at formal hearings in exclusion and deportation proceedings;

(2) Positions which require as a primary responsibility and on a substantially full-time basis the conduct of liaison with, and the rendering of assistance to, United States Attorneys.

(Positions described under [1] and [2] are classifiable in appropriate series in the Legal Group, GS-900.)

Explanatory statement:

Positions covered by these standards are located in headquarters and field offices of the investigative branch of the Immigration and Naturalization Service, which is responsible for all investigative functions arising in connection with the administration and enforcement of the immigration and nationality laws. This includes investigation of (1) violations or suspected violations of the immigration and nationality laws; (2) violations or suspected violations

*These standards were developed by the Department of Justice, Immigration and Naturalization Service, in cooperation with the Civil Service Commission, and within the framework of the "Grade Level Guides for Classifying Investigator Positions" issued by the Civil Service Commission in June 1958.

of related penal provisions of the laws; (3) applications for benefits under the provisions of the immigration and nationality laws; and (4) other investigations arising in connection with the administration of these laws and the administrative prosecutions within the jurisdiction of the Service.**

Investigators' guides are the Investigator's Handbook; Title 8, Code of Federal Regulations; Title 28, Code of Federal Regulations; Operations Instructions; interim decisions of the Board of Immigration Appeals; pertinent judicial decisions and interpretations of the law, both Federal and State; the Administrative Manual; and administrative memoranda setting forth Service policy and procedures.

All investigators are authorized to apprehend and arrest without warrant; request the issuance of a warrant of arrest or an Order to Show Cause; take depositions and statements under oath; pay out monies for information within specified limits; present the Service's position in cases before the United States Commissioner and the Grand Jury, and serve as witnesses for the Government during judicial hearings resulting from investigations they have conducted.

Conflicts in jurisdiction are common to all investigative work of the Service. Resolution of such conflicts involves determinations as to whether criminal violations are directly related to immigration and naturalization functions; determinations as to jurisdiction of other investigative arms of the United States Government; determinations and resolution of conflicting jurisdiction when closely related criminal actions fall partially within Service jurisdiction and partially within the jurisdiction of other arms of the Federal Government; determinations as to when prosecution by other branches of the Federal Government, State government, or local authorities would materially strengthen the Immigration and Naturalization case, and when the Service should surrender jurisdiction to such authorities, or cooperate with them in the development of all evidence and facts.

Authority for resolving conflicts which are covered by published guides and precedents is present in all investigative positions. Authority for final determination in issues beyond these guidelines is directly related to the difficulty of work assignments at the various grade levels.

Investigators at the higher grade levels, from time to time, present the Service's position in formal hearings, and as required, make certain analyses, reports, and recommendations in regard to subversive organizations. These duties, however, are incidental to the major investigative function and usually relate to cases or studies which the individual investigator has handled.

** See Appendix A covering investigations under INS jurisdiction, criminal violations under Service jurisdiction, and criminal offenses of interest to the Service when general investigative responsibility rests with other investigative arms of the Federal Government.

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The basic knowledges and skills required by investigators at all levels are essentially the same. All investigators must have a good knowledge of all immigration and nationality laws, and specific knowledge of those directly relating to violations thereunder, as well as specific knowledge of the criminal statutes relating to the enforcement of the immigration and nationality laws. They must keep currently informed of precedent decisions, both judicial and administrative, and of Service policy having a bearing on the enforcement of these laws. They must know and be able to determine when a prima facie case is present for the initiation of either administrative or judicial proceedings within Service jurisdiction. They must be able to analyze cases and plan the course of investigations; adapt methods, techniques, and procedures to meet unusual situations or conditions; be skilled in conducting interrogations, eliciting information from violators or reluctant witnesses and evaluating reliability and credibility of witnesses; in examining records, documents, and other evidence to detect frauds; in tracing and uncovering evidence of assumed or concealed identities; in reporting facts and distinguishing between relevant and extraneous information; in techniques of unarmed self defense; in the use of firearms; in undercover and surveillance work; and in dealing with emergency situations. They must possess ingenuity and [illegible] in recognizing [illegible] or in exhausting all leads in a case. Additional knowledges required are those concerning Customs laws and regulations relating to search and seizure; and the responsibilities and authorities of other law enforcement agencies in the Federal, State, and local levels. They must also be familiar with and be able to interpret State and foreign laws as they relate to cases assigned, including those laws which are based on common law and are particularly lacking in specificity.

The degrees and progressive scope of knowledges required are not cited specifically at the various grade levels, since the level of assignment and relative scope of cases and freedom of action clearly delineate the greater and more comprehensive knowledges, skills, resourcefulness, and ability required.

GS-1810-9 General Investigator GS-9 GS-1810-9

Assignments at this level typically involve responsibility for the planning and completion of investigations involving single issues or objectives. Cases may involve the initiation of auxiliary investigations in other areas within the district to which assigned, in other regions, and, on occasion, in overseas areas; such auxiliary investigations, however, generally are limited to specific inquiries of limited scope and complexity.

Typically, cases assigned to investigators at this level directly affect not more than one person. In those instances where more than one individual is involved, the issues are simple and clear-cut, and separate cases are established. In all investigative assignments, the applicable provisions of the law and jurisdictional authorities are well defined.

GS-1810-9 GS-1810-9

On occasion, and progressively more frequently as their techniques, resourcefulness, knowledges, and skills increase, investigators at this level are given more complex assignments to perform independently or in collaboration with an investigator of higher grade. When GS-9 investigators are assigned complete investigations of the scope, complexity, and importance described at the GS-11 level, they are furnished with specific instructions as to the scope of the investigation, and the level of contacts to be made. Close control of the development of the case is maintained by the supervisor or by a higher-grade investigator.

GS-1810-11 General Investigator GS-11 GS-1810-11

Assignments at this level usually involve multiple issues; have a potential for developing into a number of individual cases; consistently require unusual skill and ingenuity in uncovering and developing facts; and, because of the seriousness of the violations or actions involved, or the prominence of the individuals involved, are either (a) greater in their effect as deterrents to further violations, or (b) have a greater protective value to the economy and security of the country, than the investigative assignments at the next lower level.

Cases assigned to the investigator GS-11 consistently require the exercise of unusual skill, resourcefulness, and ingenuity in ferreting out information and developing facts which have been skillfully concealed over long periods of time, and in locating and securing the cooperation of witnesses who can furnish information and are willing to assist the Government, in spite of potential personal danger and harassment. Investigative assignments frequently result in the presentation of novel issues for administrative or judicial decision and unusual problems in coordinating phases of investigations with other agencies where dual or conflicting jurisdictional problems are involved. The cases assigned often involve the coordination of auxiliary investigations in many districts and sometimes require the conduct of investigations in overseas areas.

The following are typical of investigative assignments at this level:

(1) Development of facts and evidence for the initiation of proceedings for revocation of naturalization;

(2) Applicants for naturalization or other citizenship benefits where allegations or facts preliminarily developed appear to be sufficient in scope and substance to warrant the conduct of a full field investigation as to the eligibility of the applicants for the benefits sought, or to establish their deportability;

(3) Alleged fraudulent marriages entered into for the purpose of securing entry into the United States;

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(4) Aliens of the subversive, criminal, and immoral classes believed to be deportable;

(5) Document frauds where there is some evidence of a conspiracy or of widespread scope;

(6) Claims or allegations of alienage or citizenship involving unusual difficulties in establishing the true status of the individual, where extensive investigations are required to establish expatriation, to establish or refute claims of identity and relationship, or to establish or refute claims of origin;

(7) Changes in immigration status, revocation of parole, and other similar actions, where one or more individuals are involved, and the facts are difficult to establish because of the absence of records and the difficulty of locating credible witnesses;

(8) Smuggling cases where wide-scale conspiracy or smuggling rings are engaged in smuggling members of specific nationality or occupational [illegible].

(9) Development of evidence in difficult cases looking toward prosecution under the penal provisions of the immigration and nationality laws; and related violations under the criminal code;

(10) Re-defector cases involving the security and welfare of the United States; ordinarily at this level these do not involve delicate diplomatic considerations;

(11) Identification of individuals named in various crime commission investigations, and development of sufficient evidence to establish their citizenship or alienage and status in support of revocation of naturalization or deportation proceedings where appropriate, or criminal proceedings under the penal provisions of the governing laws;

(12) Complaints of illegal use of, or mistreatment of, agricultural laborers, or violations of compliance with controlling laws, rules, and regulations, where such investigations require dealing with labor representatives and representatives of foreign agricultural organizations or governments.

During the course of investigations, the investigator GS-11 determines the scope of the investigation, the necessity for the conduct of auxiliary investigations, contacts, interviews, and interrogations to be made, and inquiries of prospective witnesses or others who may be involved. He controls the activities of all other investigators assigned to assist in the development of the various phases of the investigation, and resolves jurisdictional conflicts, except in cases requiring policy decisions or establishing precedents which might

GS-1810-11

have wide-spread application. He is responsible for reporting and recommending the full course of action to be taken to complete the disposition of the cases assigned, giving due consideration to availability of administrative remedies and possibility of successful prosecution.

Personal contacts of the investigator GS-11 cover every level of social, economic, and political life. The obtaining of prior clearances from the supervisor is not generally required, except in cases where there is extreme sensitivity because of public reaction or delicacy of relations with certain countries. The investigator at this level develops informants at all social, political, and economic levels and strata who are willing to furnish information and appear as witnesses in important cases involving outstanding figures in the criminal and subversive classes. He also initially develops and establishes liaison with other law enforcement agencies, representatives of industrial organizations, welfare agencies, and other organizations.

The investigator GS-11 frequently presents the Service's position in less difficult exclusion and deportation cases at formal hearings. (This function is auxiliary to the conduct of investigations and is not a primary responsibility of investigators.) When serving in this capacity, the investigator (a) reviews applications for Orders to Show Cause for some [illegible] for completeness and consistency and for compliance with Service policy; (b) directs further investigation where necessary; (c) determines whether administrative remedies are available which would preclude the necessity for a hearing; (d) prepares Order to Show Cause where facts warrant such action; and performs other related duties required in the development and presentation of the Service's viewpoint.

Investigators at this level usually receive no instructions at the time of assignment other than advice as to any specific policies or program emphasis which may have a bearing on the case. They determine their own plans of action, request the assignment of and direct the work of other investigators assigned to assist in complex cases, and are responsible for controlling all phases of the investigation as the case progresses and develops. Review of investigative cases is accomplished through evaluation of periodic and closing reports, interim discussions, soundness of judgment exercised as reflected in recommendations made, and results accomplished. Investigators discuss cases periodically with supervisors for the purpose of keeping the supervisors informed on the status of cases and to enable the supervisors to maintain control on timely completion. Where cases have been designated as "top priority", the investigator furnishes weekly progress reports to the supervisor who keeps top staff levels of the Service informed of progress for the purpose of policy decisions, publicity controls, and close coordination of interdistrict and interregional activities.

Orders to Show Cause are reviewed by a higher-grade investigator or other officer prior to issuance. Where the proposed plan of presentation of a case contemplates a novel or unprecedented course of action, the plan is discussed with and approval obtained from the supervisor prior to the presentation of the

UNITED STATES CIVIL SERVICE COMMISSION

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case. Supervisors keep closely informed of status and frequently discuss the development of the plan of original presentation.

Periodically, and for short periods of time, the investigator GS-11 serves as a group leader, making assignments to investigators of lower or equal grade, resolving day-to-day problems, obtaining clearances for unusual deviations from procedures or for the making of contacts where policy decisions may be involved.

GS-1810-12 General Investigator GS-12 GS-1810-12

The characteristic assignments described at this level are relatively limited in volume in the Service. Positions of this type are found only in the larger districts where the volume of such assignments warrants their concentration in single positions. Occasional performance of such duties on a one-time or infrequent basis does not merit classification in this grade level.

Assignments at this level are those of the most complex and delicate nature, where the issues involved have a great impact on the national security involve important political, social, or similar implications; or involve persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case assignments is such that the investigations are nationwide in scope, or, where less than nationwide, are particularly complex, or the case is extremely important from the standpoint of potential effect on Service-wide operations.

These cases differ from cases which are characteristic of the next lower level because of their greater delicacy and complexity and their potentially greater importance. Case assignments consistently require exceptional resourcefulness and ingenuity in the uncovering of cleverly concealed facts and skill in examining and analyzing records and reconstructing events covering long periods of time, in eliciting information from hostile witnesses, and in obtaining the cooperation of and persuading individuals to give testimony where it might result in exposing such witnesses to physical harm or extensive harassment. Investigators at this level must be skilled in organizing and planning large-scale investigations, and coordinating multiple investigations conducted at many points within the United States and overseas.

The following are typical investigative assignments at this level:

(1) Development of facts and evidence for the initiation of or in support of further proceedings for revocation of naturalization and/or deportation involving:

(a) Key members of subversive organizations who direct the activities of the organization or otherwise influence and control a number of individuals, engaged in subversive activities, usually in key areas or operations located at widely separated points throughout the country.

(b) Principals of well-organized underworld activities who operate behind or within the protection of legitimate business enterprises or organizations, or whose identity and activities are otherwise cleverly concealed, in many instances by frauds perpetrated many years ago.

(c) Members of subversive organizations, organized crime syndicates, and others who have managed to achieve prominence in various levels of social life, and who have throughout the years escaped identification or conviction, or have evaded deportation through representation by expert legal counsel well-versed in means and methods of obtaining delays and estopping actions through various legal maneuvers.

(2) Investigations involve individuals of such political or social status as to involve delicate diplomatic considerations or give rise to heavy pressures from organized groups and the press, and which frequently are of great interest to the general public.

(3) Document frauds involving coordination and analyses of multiple investigations where the individual frauds appear to be the result of a cleverly conceived conspiracy, organized and controlled by a single individual, organization, or syndicate directing operations in both domestic and foreign areas.

(4) Claims of citizenship or legal status where it is believed the claim is based on well-concealed frauds or falsified evidence. These investigations usually involve individuals who are or are believed to be in a position to direct, motivate, and control large numbers of people engaged in various illicit activities affecting the security and welfare of this country.

(5) Smuggling and document fraud matters where large-scale and well-organized rings or syndicates are operating on an international basis in smuggling aliens into this country or counterfeiting documents, and indoctrinating and training aliens in the use of fictitious or assumed identification data.

Also included at this level are the following types of assignments: (These are auxiliary to the conduct of investigations and are not primary responsibilities of the GS-12 investigators):

(1) The preparation of analytical reports of the stature, objectives, and membership of various organizations or publications believed to be subversive in nature, or controlled by members of the Communist party; such reports include recommendations for submission to the Attorney General as to the classification of such organizations or publications.

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GS-1810-12 GS-1810-12

(2) Presenting the Service's position in complex exclusion and deportation cases at formal hearings; cases assigned at this level are those involving multiple issues, novel interpretations or applications of the laws, or unusually important subjects. (When serving in this capacity, the investigator GS-12 performs the same kind of duties and has the same general responsibilities as those described in presentation functions at the next lower grade level; at the GS-12 level, however, the cases involved are more difficult and important, and the individual responsibility of the investigator is greater.)

At this level the investigator is responsible for coordinating all aspects of the investigations assigned. There is usually no limitation on the level of liaison which runs the gamut of political, social, and economic levels, and includes close cooperation with other Government agencies in the interchange of information and in the resolution of jurisdictional questions. The investigator GS-12 is relied upon to make determinations concerning diversions from normal procedures or unusual adaptation of procedures. He is delegated considerable authority to secure certain temporary privileges for or to make monetary reimbursements or payments to cooperative witnesses and informants.

The GS-12 investigator [illegible] a minimum amount of supervision. Supervisory contacts during the course of an investigation or in the conduct of hearings are primarily to enable the supervisor to keep informed on the status of cases and to resolve unusual policy questions. The investigator makes independent decisions within the framework of established policy, since the problems and situations he encounters often present novel questions for which no direct precedents exist. He resolves problems referred by lower-grade investigators including resolution of jurisdictional conflicts, working closely with other agencies in coordinating related phases of investigations.

I. INVESTIGATIONS UNDER INS JURISDICTION*

A. Immigration Investigations

1. Visa Petition for Immigrant Status
2. Visa Petition for Nonquota or Preference Quota Status
3. Application to Enter Skilled or Unskilled Labor
4. Application to Reenter the United States ("7th Proviso")
5. Application for Extension of Stay
6. Maintenance of Status Treaty Traders
7. Temporary Exclusion
8. Preexamination
9. Deportable Aliens
10. Deportable Aliens (Subversive Grounds)
11. Aliens Under Conditional Parole, Bond, or Supervision
12. Examining Officer
13. Voluntary Departure (Prior to Issuance of warrant of arrest)
14. Suspension of Deportation
15. Voluntary Departure (after issuance of warrant of arrest and prior to hearing)
16. Adjustment of Status (Nonimmigrant to Permanent Resident)
17. Recision of Adjustment of Status (Nonimmigrant Permanent Resident)
18. Adjustment of Status (Resident Aliens to Nonimmigrants)
19. Change of Nonimmigrant Classification
20. Creation of Record of Permanent Residence ("Registry")
21. Removal of Aliens
22. Deportation of Certain Crewmen Landed
23. Immigration Fines
24. Suspension or Disbarment of Attorneys or Representatives
25. Private Bills
26. Organization, Subversive

(*This chart is intended to cover only the more important investigations under Service jurisdiction.)

B. Naturalization Investigations

1. Subversive Grounds

5. Waiver of Personal Investigations of Petitioners

6. Waiver of 30-day Period

7. Revocation of Naturalization

8. Special Certificate of Naturalization for Recognition by a Foreign State

II. CRIMINAL VIOLATIONS UNDER SERVICE JURISDICTION

A. Title 8 United States Code

1. Entry at Departure During Time of War, etc.
2. Failure to Comply with Supervisory Requirements.
3. Failure to Depart After Final Order of Deportation
4. Crewman Wilfully Remaining Longer
5. Failure to Carry Alien Registration Certificates or Cards on Person
6. Wilful Failure to Register (A. R.)
7. Failure to File Address Report
8. Fraud in Registration (A. R.)
9. Unlawfully Presenting, Photographing, Engraving A. R. Cards
10. Bringing in or Harboring or Concealing Certain Aliens
11. Illegal Entry, Mistepresentation, and Concealment
12. Reentry or Attempted Reentry of Excluded and/or Deported Aliens
13. Aiding Subversive Alien to Enter, etc.
14. Importation of Alien for Immoral Purposes

B. Title 18 United States Code

1. Conspiracy - To Commit Offense or to Defraud United States
2. False Personation - Falsely and Wilfully Represents Self to be Citizen of United States
3. False Statements Generally
4. Fraud and False Statements in Naturalization, Citizenship or Alien Registry
5. Accounts of Court Officers
6. Fees in Naturalization Proceedings

B. Title 18 United States Code--Continued

7. Misuse of Evidence of Citizenship or Naturalization
8. Personation or Misuse of Naturalization Documents
9. Procurement of Citizenship or Naturalization Unlawfully
10. Reproduction of Naturalization or Citizenship Papers
11. Sale of Naturalization or Citizenship Papers
12. Failure to Surrender Canceled Certificates
13. Neglect or Refusal to Answer Subpena
14. Fraud and Misuse of Visas, Permits, or Other Entry Documents
15. Perjury
16. Subornation of Perjury

III. CRIMINAL OFFENSES OF INTEREST TO THE SERVICE

1. Assaulting, Resisting, or Impeding Certain Federal Officers - (FBI*)
2. Bribery, Offer and Acceptance of (FBI*)
3. Bribery, Offer to Witness (FBI*)
4. Bribe, Acceptance by Witness (FBI*)
5. Conspiracy or Injure Officer, Conspiracy to (FBI*)
6. Attempt or Conspiracy to Escape (FBI*)
7. Officer Permitting Escape (FBI*)
8. Escape of Prisoners of War or Enemy Aliens (FBI*)
9. Espionage and Related Offenses (FBI*)
10. Fraud, Forgery and Misuse of United States Passports (Dept. of State)
11. Kidnaping (FBI*)

(*General Investigative jurisdiction)

12. Stowaways (FBI*)
13. Assault or Resistance to Searches and Seizures (FBI*)
14. Authority Exceeded in Executing Search Warrant (FBI*)
15. Search Warrant Procured Maliciously (FBI*)
16. Searches Without Warrant (FBI*)
17. Boarding Vessels Before Arrival (by person not in U. S. Service or duly authorized)
18. Treason, Sedition and Subversive Activities (Smith Act) (FBI*)
19. White Slave Traffic (FBI*)
20. Registration of Foreign Propagandists (FBI*)
21. Selective Service Act, Universal Military Service and Training Act (FBI*)

DATE:

TO: Associate Commissioner, Management
Immigration and Naturalization Service

FROM: Kenneth J. Studlo
Director of Personnel

SUBJECT: Classification of General Investigator Positions

This replies to your memorandum of April 5, 1968 to Assistant Attorney General Pollard. In view of the serious and widespread application of the instructions contained in the draft which you submitted for our review, we decided it desirable to seek Civil Service Commission clarification of the mixed-grade policy. I regret the delay which this occasioned.

We concur in the substance of the instructions and [illegible] to issue them. They may be expected to provide needed guidance to field officials of the Service concerned with the classification of general investigator positions.

In view of the close relationship between position classification and the assignment of work, we suggest that you add, as the ultimate paragraph of the instructions, the following:

> Where the mixed-grade rule applies, special care should be exercised to ensure that--insofar as is practicable--assignments are consistent with the grade of the investigator and his position.

Enclosed, for your information, is a copy of the Civil Service Commission's reply to our request for clarification of the mixed-grade policy.

A-474

NE 71/1-P
NE 71/20
NE 71/20.1-P
March 31, 1967

Commissioner, Central Office

J. Leo Bagley, Regional Commissioner,
Burlington

Audit of GS-12 Investigations Cases, Northeast Region

The audit conducted by the Regional Office resulted in the following conclusions:

Add 3 GS-12 nonsupervisory investigator positions New York.

Add 2 GS-12 nonsupervisory investigator positions Newark

No GS-12 nonsupervisory investigator positions were found to be needed in any of the other offices in this Region.

After the briefing in the Central Office on February 15, 1967, the Deputy District Directors, Newark, St. Albans and Portland, and the Assistant District Directors, Investigations, New York, Boston, Hartford and Buffalo, attended a similar briefing in the Regional Office on February 17, 1967.

The St. Albans and Portland District offices reported by memorandum that there was insufficient Grade 12 investigative work in their districts to warrant a GS-12 investigator position. The District Director, Buffalo reported by memorandum that the work in Ogdensburg did not justify the creation of a Grade 12 investigator position in that station. For your convenience copies of the three memorandum are attached.

In the districts audited (New York, Newark, Buffalo, Hartford and Boston) all cases handled during 1966 and thus far in 1967 identified by district supervisory officers as possible Grade 12 investigative casework were reviewed by regional personnel. The cases were then analyzed from an operational and classification standpoint within limits of the GS-12 Investigator standards (nonsupervisory).

During the week of February 27, 1967, Assistant Regional Commissioner Augustine and Regional Personnel Office McLynn audited the cases at Hartford and Boston. Boston supervisory personnel took into consideration the work at Providence and Springfield. This audit reached the conclusion that there was insufficient Grade 12 work in either district to warrant the creation of a Grade 12 investigator position. The District Directors, Deputy District Directors, and Assistant District Directors for Investigations, concurred in this conclusion.

Supervisory Regional Investigator Boriskin and Position Classification Specialist Francaviglia audited the work at Buffalo and Albany during the

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same week. Investigator Long of Albany requested an audit although the Buffalo District Office reported that there was no Grade 12 investigative work in that sub-office. It became apparent that Investigator Long was not actually requesting a desk audit but rather wished to discuss all of his work. He stated that neither he nor the other investigators in Albany could recall any case at any time in the past year which would meet the Grade 12 standards. He presented 17 files requesting that they be reviewed to determine if any met the Grade 12 standards. After review it was determined that 13 of the cases were at the Grade 9 level and 4 at the Grade 11 level.

At the outset of the audit in Buffalo the District Director volunteered the opinion that there was insufficient Grade 12 work in the Buffalo District Office to warrant a Grade 12 nonsupervisory investigator position. The audit confirmed this opinion. Of the cases presented as possible Grade 12 cases only 1 was found to meet the Grade 12 standards. This case was assigned to Investigator Latchford but did not occupy a majority of his time. He spent 260 hours on this case or 13½% of his time.

Investigator Edgecombe requested that his liaison work in Canada be reviewed as he believed that it was of the Grade 12 level. His work was reviewed but it was concluded that it did not meet the Grade 12 investigator standards.

In summation: There is insufficient Grade 12 investigative work in St. Albans, Portland, Hartford, Boston, including Springfield and Providence, and Buffalo, including Albany and Ogdensburg, to justify the creation of a Grade 12 investigator position in these areas.

No other officers in these districts requested a desk audit.

During the week of March 6, 1967, Mr. Augustine and Mrs. McLynn audited the cases presented by the New York office. After the audit a terminal conference was conducted with the District Director, Deputy District Director Marks, ADDI Wroblewski, and section chiefs Spivack, Lambert, Wagner and Kiley. In the course of the conference there was free discussion regarding the cases which the regional personnel found fell short of the Grade 12 standards.

One case in General Investigations was most unusual and was delicate. It became apparent to all that whether this case was considered or not, it would have no overall effect on the final conclusions. A Grade 11 investigator spent approximately 5% of his time on that case.

No cases were found to meet the Grade 12 standards in Search and Crewman Control. A few cases in Crewman Control had some aspects of the Grade 12 standards but the overall, complex and difficult work would not have been performed in New York but by one of the border districts since the principals in the cases were in Canada. What New York had were individuals smuggled into the United States by persons in Canada. Some of these individuals were

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the "relative" cases and did not meet the Grade 12 standards.

In the Frauds section in New York there are presently 6 Grade 12 journeyman investigators. These 6 men are devoting 34% of their total time at the present to Grade 12 work. Among the Grade 11 investigators 6 were found to be performing Grade 12 work. Only 1 (Investigator Robert J Lyness) was found to be performing such work for a majority of his time (60%).

It would appear that the work of Investigator Lyness could be reassigned to some of the present Grade 12 journeyman investigators. However, this would be unwise considering the probable future developments in New York particularly in the anti-fraud program. It is not expected that there will be any decrease in the involved, complex fraud cases in New York. On the contrary, it is fully expected that this work will be on the increase. To insure proper attention to this important program, it would be wiser to reclassify Mr. Lyness to a Grade 12 investigator journeyman position. Mr. Lyness is on the highly recommended list for promotion.

The remaining 5 investigators devlote 29% of each man's time to Grade 12 fraud cases. This work could be absorbed by the present staff, particularly if an additional Grade 12 investigator position is authorized.

In the Subversive section of New York there are presently 5 Grade 12 journeyman investigators. The New York office reports that these men are new devoting 180% of their time to Grade 12 work. Some reassignment of work is in order. At the same time it must not be overlooked that there will be an increasing need to compile evidence on organizations particularly foreign organization in the Caribbean area if we are to be successful at all in controlling this menace. Such compilation falls squarely within the current Grade 12 standards. This technique has been discussed at New York and there is complete agreement that New York will embark upon this technique.

Of the Grade 11 investigators in the Subversive section only 1 investigator was assigned Grade 12 work, and he devoted 20% of his time to such cases.

Therefore, it is recommended that no additional Grade 12 positions be authorized for the Subversive section in New York.

In the Criminal, Immoral and Narcotic section the audit disclosed a total of 149% of investigative time spent on Grade 12 control casework. This total does not include time spent on auxiliary investigations where the control office is engaged in a Grade 12 investigation. If this time was considered, the total percentage would be about 100%. It is urged that this factor be considered and accepted since it would be desirable and even necessary to assign such auxiliary investigations involving a Grade 12 control case to the most effective investigator who would ordinarily be at Grade 12.

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In any event it is apparent that 2 Grade 12 journeyman investigator positions are necessary for the Criminal, Immoral and Narcotic section in New York.

The audit revealed that Investigator Jack J. Ricciardi devoted 70% of his time to Grade 12 investigative casework. The remaining time was more or less equally divided among 8 other investigators nonw of whom performed such work for a majority of their time.

It is recommended that Investigator Ricciardi be reclassified to a Grade 12 investigator position. He is on the highly recommended list for promotion.

No recommendation is being made with respect to filling the remaining Grade 12 investigator position which is needed in the Criminal, Immoral and Narcotic section in New York since none of the investigators in that section now performing Grade 12 work do so for a majority of their time. One of the remaining 8 investigators has devoted approximately 25% of his time to Grade 12 work and the other lesser amounts. No investigators in New York requested a desk audit. It is expected that such investigative work of the Grade 12 level will continue in New York.

Miss Francaviglia and Mr. Boriskin reviewed the material at the Newark Office on March 6,7, and 8, 1967. A desk audit was not requested by any of the investigators.

The Newark Investigations staff is separated into two groups, General and Special. No cases were found in General that met the GS-12 standards. In Special it was found that five cases using 33% of total time were in the criminal category; three cases using 85% of total time were in the subversive category and four cases using 22% of total time were in the fraud category. One case, using 20% of total time had both criminal and subversive elements. All of these met the standards for GS-12 investigations.

Thus, 159% of total time was devoted to GS-12 cases in 1966 and the first two months of 1967. In addition one newly assigned case, for which time cannot presently be estimated, appears to involve tailor petition frauds and two attorneys who have been previously suspect.

Investigator Skosnik was occupied in 1966 and the first two months of 1967 for 62% of his time on one subversive case and one fraud case. In addition, the new tailor petition investigation has been assigned to Investigator Skosnik. Five additional investigators spent a total of 97% of their time on eleven GS-12 cases but none devoted a major portion of his time to this work.

Although the preceding paragraphs speak of thirteen cases, most of them involve a number of individuals, such as the tailor petition cases and those involving attorneys.

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Our findings were discussed with District Director Rinaldi and Deputy District Director Wyrsch on the last day of the audit.

It appears that two GS-12 investigators will be able to handle the [illegible] casework in Newark. Every indication is that this work will continue at [illegible] about the present volume. Accordingly, our recommendation is that two GS-12 journeyman investigator positions be authorized for Newark.

Our recommendation is that Investigator Skosnik be reclassified to [illegible] position solely for the reason that he is presently handling cases which meet the GS-12 standards for a major portion of his time. Mr. Skosnik is not on the current promotion lists. No recommendation can be made for the second position as no other investigator is engaged with such cases for a major portion of his time.

The Civil Service Commission, New York Region and Boston Region as well as the Civil Service Commission Representative in Hartford were all contacted. Initially, Mr. Friedman, (New York Region) indicated that he would be available during the New York inspection, and that Mr. [illegible] would participate in the Newark inspection. All others indicated that they would not be available. Upon contact, however, Mr. August was not available. Mr. Friedman came to the New York office on Wednesday, March 3, 1967. Mrs. McLynn briefed him on the approach being followed. He stated that this was the approach he would follow but saw no need for participation at this point.

Attachments

/s/ J. Leo Bagley

CC: WF 71/20.1

LJA/MB/DJMcL/SVF/jl

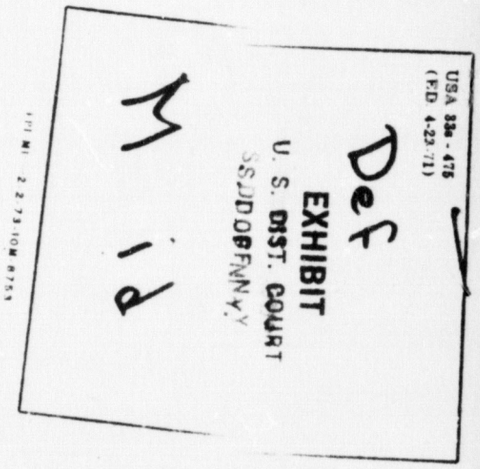
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Recommended Additional GS-12 General Investigator Positions

Location	Number of Positions	Investigators to be Reclassified	Investigators performing next highest (but less than 50%
Northeast Region			
New York District	3	1 - Lyness (Fraud)	CIN? Beller, Cooper, Stowe, Tarrant, Vyse, Dilla
		2 - Ricciardi (CIN) *	
		3 - (CIN)	
Newark District	2	1 - Skosnic	Whelan, Rhodes
		2 -	
Southeast Region			
Miami District	3	1 - Ross	Provenzo, Adams, Savage
		2 -	
		3 -	
Philadelphia District	2	1 -	Kasmen ?, Conway (64)
		2 -	
Cleveland District	1	1 -	Morgan, Nygren
Washington District	2	1 -	Dinwiddie
		2 -	
San Juan District	1	1 -	Perkins, Day
New Orleans District	1	1 -	Duvall
Northwest Region			
Detroit District	3	1 - Westmeyer	
		2 -	
		3 -	Killen, Ogden
Chicago District	5	1 - Burke	
		2 - Mayberry	
		3 - Thut	
		4 -	Kalis
		5 -	Sardiga
Southwest Region			
San Francisco District	3	1 - Slattery (Special)	
		2 - (Special)	Martin
		3 - (Fraud)	Hoffman, Mill
Los Angeles	5	1 - Barnes (Fraud	
		2 - Pyeatt (Anti-Sub)	
		3 - (Anti-Sub)	Deckard, Mitchel, Moe, McGinnis
		4 - (Fraud)	Smith, Hedley, Sallee
		5 - (CIN)	Chandler, Linsey

* Pre-Merit Intake approval by CSC

A-479



Results of Investigation (Non-Reservists)
CSC 10 Position Survey as Recommended by:

Northeast Region

Newark Total 2	Fraud & CDN 1	Subversive 1 (Joseph Skownik)
New York Total 3	Fraud 1 (Robert J. Lynese)	CDN 2 (Jack J. Ricciardi)

Regional Total 5

Southeast Region

Miami Total 3	Fraud 1 (Ralph B. Rose)	Unknown 2
Philadelphia Total 2		Unknown 2
Washington Total 2		Unknown 2
Cleveland Total 1		Unknown 1
San Juan Total 1		Unknown 1
New Orleans Total 1		Unknown 1

Regional Total 10

Northwest Region

Detroit Total 3	General 1 (Victor A. Woetzeyer)	Special 2
Chicago Total 5	General 2	Special 3 (John J. Burke) (William F. Mayberry) (Richard R. Thut)

Regional Total 3

Southwest Region

Los Angeles Total 5	Fraud 2 (John M. Barnes)	Subversive 2 (Gene B. Pyeatt)	SIA 1
San Francisco Total 3	Fraud 1	Special 2 (Jack F. Slattery)	

Regional Total 8

Grand Total Recommended 31

A-482

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Associate Deputy Regional Commissioner,
Management, NYRO

CO 637.2-C
FEB 10 1957

Associate Commissioner, Management

Authorized Force

The Civil Service Commission has certified eleven General Investigator positions in the New York District Office at grade GS-12. Your authorized force is changed accordingly:

Northeast Region
New York District
Investigations Branch

ELIMINATE: 11 General Investigator GS-1810-11, #60317

ADD: 11 General Investigator GS-1810-12, #67341
(Max Gottlieb, Leon Wilson, Louis J. Colaiano, Samuel Stockler, Jesse Peterson, Kellogg Whittick, Robert Hoffman, Bernard Sobernas, Anthony DeVito, Robert Ford, and Oscar Colton)

These positions have been designated sensitive under EO 10450.

cc: Mr. Koto
cc: Investigations
cc: Mr. Francis
cc: Mr. Casey
cc: Records (thru Mr. Franklin)
cc: A. P. Check

AUG 21 1973

RJF:lw

NB (13 pages)

CO 637.3-C

Associate Deputy Regional Commissioner,
Management, NRO

MAY 1 1967

Associate Commissioner, Management

Authorized Force

As a result of the recent classification survey of General Investigator positions, certain grade 11 General Investigators were found to be spending the majority of their time on investigative work evaluated at grade GS-12 and on the basis of the yardstick established by the Civil Service Commission have been reclassified to General Investigator, GS-1810-12. Your authorized force has been changed accordingly as follows:

Northwest Region
Chicago District
Investigations Branch

ELIMINATE: 3 General Investigator GS-1810-11, 1609A5

ADD: 3 General Investigator GS-1810-12, 1679A1
(John J. Burke, William F. Mayberry, Richard R. Thut)

Detroit District
Investigations Branch

ELIMINATE: 2 General Investigator GS-1810-11, 1609A9

ADD: 2 General Investigator GS-1810-12, 1679A1
(James R. Killeen, Victor A. Westmeyer)

These positions have been designated sensitive under EO 10450.

The necessary Notification of Personnel Actions reclassifying Messrs. Burke, Mayberry, Thut, Killeen and Westmeyer are being prepared by this office.

cc: Mr. Moto
cc: Mr. Greene
cc: Mr. Burrows
cc: Mr. Francis
cc: [illegible]
cc: Records (thru Mr. Franklin)
cc: A. F. Check

BJF:lw

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A-484

CO 537.4-C

Associate Deputy Regional Commissioner,
Management, SERO

MAY 1 1967

Associate Commissioner, Management

Authorized Force

As a result of the recent classification survey of General Investigator positions, certain grade 11 General Investigators were found to be spending the majority of their time on investigative work evaluated at Grade GS-12 and on the basis of the yardstick established by the Civil Service Commission have been reclassified to General Investigator, GS-1810-12. Your authorized force has been changed accordingly as follows:

Southeast Region
Miami District
Investigations Branch

ELIMINATE: 1 General Investigator GS-1810-11, #606A15

ADD: 1 General Investigator GS-1810-12, #676A1
(Ralph B. Ross)

This position has been designated sensitive under EO 10450.

The necessary Notification of Personnel Action reclassifying Mr. Ross is being prepared by this office.

cc: Mr. Noto
cc: Mr. Greene
cc: Mr. Burrows
cc: Mr. Francis
cc: Mr. Casey
cc: Records (thru Mr. Franklin)
cc: A. F. Check

BJF:lw

3

CO 637.3-C

Associate Deputy Regional Commissioner,
Management, SWRO

Associate Commissioner, Management

Authorized Force

As a result of the recent classification survey of General Investigator positions, certain grade 11 General Investigators were found to be spending the majority of their time on investigative work evaluated at grade GS-12 and on the basis of the yardstick established by the Civil Service Commission have been reclassified to General Investigator, GS-1810-12. Your authorized force has been changed accordingly as follows:

Southwest Region
Los Angeles District
Investigations Branch

ELIMINATE: 2 General Investigator GS-1810-11, #6016A15

ADD: 2 General Investigator GS-1810-12, #6716A1
(John N. Barnes, Gene B. Pyeatt)

San Francisco District
Investigations Branch

ELIMINATE: 1 General Investigator GS-1810-11, #6013A9

ADD: 1 General Investigator GS-1810-12, #6713A1
(Jack F. Slattery)

These positions have been designated sensitive under EO 10450.

The necessary Notification of Personnel Actions reclassifying Messrs. Barnes, Pyeatt and Slattery are being prepared by this office.

cc: Mr. Moto
cc: Mr. Greene
cc: Burrows
cc: Mr. Francis
cc: Mr. Casey
cc: Records (thru Mr. Franklin)
cc: A. F. Check

BJF:lw

CO 637.2-3
JUN 16 196[illegible]

Associate Deputy Regional Commissioner,
Management, NERO

Associate Commissioner, Management

Authorized Force

The Bureau of Inspections, U. S. Civil Service Commission has reopened and reconsidered position classification appeals of a number of investigators in the New York District. As a result the Commission has certified twelve additional General Investigator positions in New York to General Investigator GS-1810-12. In addition the position occupied by Mr. Robert J. Lyness is also being reclassified to General Investigator GS-1810-12 as a result of your survey and recommendation. Your authorized force is changed as follows:

Northeast Region
New York District
Investigations Branch

ELIMINATE: 13 General Investigator GS-1810-11, 76038[illegible]

ADD: 13 General Investigator GS-1810-12, 3673[illegible]
(Benjamin Beller, Sidney Fass, Phillip M. Guglielmo, Joseph J. Judge, Edward Kavazanjian, Jack M. Lazarus, Robert J. Lyness, Sidney E. Mason, Jack J. Ricciardi, James J. Rowland, Frank E. Stove, Robert A. Wilson, Samuel H. Zutty)

These positions have been designated sensitive under EO 1[illegible]0.
You will note Mr. Ricciardi who along with Mr. Lyness was recommended for reclassification in your report is also being reclassified by this action.

The necessary Notification of Personnel Actions effecting the above reclassifications are being prepared by this office. Copies of the grade GS-12 position description and the Commission's letter certifying these reclassifications are attached.

Enclosures
cc: Mr. Noto
cc: Investigations
cc: Mr. Francis
cc: Mr. Casey
cc: Records (thru Mr. Franklin)
cc: A. F. Check

BJF:lw

CO 637.2-C

Associate Deputy Regional Commissioner,
Management, NERO

JUN 23 1967

Associate Commissioner, Management

Authorized Force

As a result of the recent reevaluation of the classification review of grade GS-12 investigative work, the authorized force for your region has been changed as follows:

Northeast Region
New York District
Investigations Branch

ELIMINATE: 2 General Investigator GS-1810-11, #603A7

ADD: 2 General Investigator GS-1810-12, #673A1
(Lloyd W. Cooper, George Z. Tarrant)

Newark District
Investigations Branch

ELIMINATE: 1 General Investigator GS-1810-11, #602LA4

ADD: 1 General Investigator GS-1810-12, #672LA1
(Harrison J. Rhodes)

Buffalo District
Investigations Branch

ELIMINATE: 1 General Investigator GS-1810-11, #607A20

ADD: 1 General Investigator GS-1810-12, #677A1
(Frank E. Latchford, Jr.)

These positions have been designated sensitive under EO 10450.

Attached are copies of the grade GS-12 position description.

Enclosures

CC: Mr. Noto
cc: Mr. Burrows
cc: Mr. Francis
cc: Mr. Casey
cc: Records (thru Mr. Franklin)
cc: A. F. Check

BJF:lw

A-483

Address
Director New York Region
U.S. Civil Service Commission
News Building 220 East Forty Second St
New York 17, N.Y.

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK 17, N.Y.

IN REPLY PLEASE REFER TO

PMO:WJH:ml

YOUR REFERENCE

OCT 31 1963

Regional Commissioner
Immigration and Naturalization Service
Burlington, Vermont

Dear Sir:

This letter transmits a copy of our report of the recent inspection of personnel management in your New York District Office. Since you retain authority for classifying positions in the District, I am asking that you report to us on the required classification actions discussed in the attached report. Please submit your report on the action taken or the action contemplated, within 90 days.

I appreciate the cooperation given us by members of your staff, particularly the assistance provided by Mrs. Dorothea Mc Lynn who participated in the inspection.

Sincerely yours,

James P. Googe
REGIONAL DIRECTOR

A-489

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK 17, N.Y.

IN REPLY PLEASE REFER TO

PMO:WJH:jp

YOUR REFERENCE

Address
Director New York Region
U.S. Civil Service Commission
Federal Building 120 East Forty-Second St
New York 17, N.Y.

OCT 31 1956

District Director
Immigration & Naturalization Service
20 West Broadway
New York 7, N.Y.

Dear Mr. Esperdy:

This letter furnishes our report of the recent inspection of personnel management in the New York District.

Since personnel policies are formulated and issued by your central office and personnel services are provided by your Regional Office in Vermont, this report is concerned primarily with the day-to-day personnel management carried on by you and other District officials and with the extent to which personnel policies and programs are meeting your operating needs.

Our findings indicate that personnel management activities are making an effective contribution to the accomplishment of the District's mission, and that management officials are aware of and are carrying out their personnel management responsibilities. Most management officials and supervisors have received training to assist them in the performance of their managerial duties, including personnel management. Your Regional Personnel Office conducts supervisory training periodically; however, it has been about two years since such training has been provided for supervisors in this District and some new supervisors have not had such training. Regional Office representatives indicated that they expect to conduct supervisory training here in the near future. We suggest, however, that you give consideration to establishing a local program which will provide a basic orientation in management for new supervisors in the future. This could serve as an interim training measure pending the availability of a comprehensive, formal training course.

The major recruiting source for filling officer positions in the Service has been the Border Patrol examination, and officer positions in this district have been filled through reassignment or promotion from the Border Patrol. Because of the high cost of living and other factors, it became increasingly difficult to find Border Patrolmen who were willing to come to and remain in New York. As a result, you are now using the Federal Service Entrance Examination to fill investigator and inspector positions. You and other management officials indicated that the FSEE has been a satisfactory recruitment source.

At the present time, recruiting for clerical positions presents more of a problem than officer recruiting. Officials interviewed indicated that, except at the end of the high school term, well-qualified applicants are seldom available. Representatives of your Regional Office indicated that a study will be made to ascertain what positive recruiting efforts might be appropriate to alleviate this problem. We will be glad to provide any advice and assistance which we can in this area.

All management officials interviewed expressed satisfaction with the operation of the merit promotion program. Employee interviews and responses to questionnaires on the other hand reflected substantial dissatisfaction with the program. The dissatisfaction or lack of confidence reflected appears to stem primarily from inadequate knowledge and understanding of the actual operation of the system.

Considerable attention has been given to the training and development of employees. Officer personnel are sent to the Service training center at Port Isabel and correspondence courses are also available. In addition, a substantial amount of both formal and informal training is conducted locally. While no weaknesses or deficiencies in employee development activities were disclosed by the inspection, we feel it would be desirable to establish a local policy and procedures to insure a systematic approach to determining training needs, planning training programs, and evaluating the effectiveness and results of training conducted. We found evidence of such a systematic approach in some organizational segments in the form of training schedules, course outlines or training plans, and formal evaluations of the results of training activities. In other sections, however, training activities are not as well planned and organized and there is no evaluation of the effectiveness of training other than whatever informal appraisals may be made by supervisors in their observation of work performance.

Supervisor-employee relations appear to be good and discussions with employees and supervisors disclosed a generally high degree of motivation and strong esprit de corps. While employees are well informed on most of the policies, regulations, rights, benefits, and obligations which apply to them and most of them feel free to consult their supervisor on problems or questions, there are indications that communications are not fully effective. For example, there is not a good knowledge and understanding of position classification and of the promotion program, and a substantial number of employees indicated that they were not aware of channels through which they can present their views or problems to officials at higher levels.

Our inquiry into the special interest areas of equal opportunity for minority groups and the status of women disclosed no problems. Negroes are employed in all segments of the organization and are found in the higher-graded jobs (GS-11 and GS-12) and in supervisory positions. Similarly women are well represented in most organizational segments and occupations. The exceptions are investigator positions, which are properly restricted to males, and immigrant inspector positions, which have recently been opened to women.

Employee-management cooperation was also found to be satisfactory. Although agency instructions implementing Executive Order 10988 were not received until the time of the inspection, you have had an amicable and cooperative relationship with the local AFGE lodge on an informal basis.

Our review of the classification program included desk audits of 12 investigator positions at grades GS-9 and GS-11. The audits disclosed that supervisors generally have a good understanding of grade level distinctions and make work assignments consistent with the grades of employees. We did, however, find one case in which an employee, Alexander Plasterstein, whose position is classified as General Investigator GS-1810-9 has been performing work of the GS-11 level for about 50% of the time. Action is therefore required to reclassify the position to GS-11 or to adjust the assignments of the employee so that he spends a preponderance of time on work of the GS-9 level.

While no other audits were made, a group interview with three employees who occupy positions of Interpreter GS-1047-7 raised a question as to the propriety of the classification of these positions. From the information presented by these employees, it is apparent that at least some of the work they perform exceeds the GS-7 level. A limited inquiry into this matter was made by a representative of your Regional Office, Mrs. McLynn, who participated in the inspection. Her findings tend to support our opinion that there is a basis for upgrading these positions. It was agreed therefore that a review will be made of all Interpreter positions and a report made to us of the findings and corrective actions taken. The descriptions for these positions need revision since they do not contain sufficient information to determine the proper grade level.

Since your Regional Office retains authority for classifying positions, we are asking them to report on the required classification actions. I would be interested in hearing from you as to any actions you may take as the result of our suggestions and comments regarding training and communications.

I appreciate the cooperation and courtesy extended to our representatives during their visit.

Sincerely yours,

James P. Google
REGIONAL DIRECTOR

A-492

reclassification route

UNITED STATES CIVIL SERVICE COMMISSION
BUREAU OF INSPECTIONS
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO
IE:INP
YOUR REFERENCE

FEB 15 1967

Mr. E. A. Loughran
Associate Commissioner, Management
Immigration and Naturalization Service
Washington, D. C. 20536

Dear Mr. Loughran:

Recently, the Director of our New York Region sent you his decision on the classification appeals that had been filed by 48 investigators in your New York district office. Eleven of these positions were found to be at the grade GS-12 level.

In the process of handling the appeals, we found that the difficulties regarding these positions had been caused by the way the GS-12 level investigator work was organized. It was the intention of the Service that GS-12 level investigator work be assigned to GS-12 and GS-13 supervisors. However, our review showed that supervisors were so busy with the assignment of cases, the review of progress reports, liaison with other law enforcement agencies, show cause orders, etc., that they do not have time to carry a case load of their own.

This resulted in the GS-12 level work being assigned to various grade GS-11 investigators. In some instances, the extent of the GS-12 level work performed was not sufficient to cause the positions to be evaluated at grade GS-12. In those cases which our New York Region evaluated at grade GS-12, the investigators were spending a preponderant amount of their time on GS-12 level work. Therefore, the fact that some GS-12 level work had been performed without the benefit of GS-12 salary, has fostered employee discontent and has caused pressures for higher grades.

It is probable that the decision on the positions in New York will have an impact on other district offices because GS-12 level investigative work may well exist in other offices under the same or similar circumstances, particularly in the larger offices. Therefore, we believe that it will be important for you to use the decisions on the positions in the New York district office as a pilot and determine from a classification review, which investigators in other district offices are performing at the grade GS-12 level. In this way, recognition can be given through reclassification of the positions, where this action is warranted.

P

We will appreciate it if you will let us know the course of action you propose to follow, and the date by which you anticipate that all actions will be completed.

Sincerely yours,

Gilbert A. Schulkind

Gilbert A. Schulkind
Director

A-494

CO 612.1-C
FEB 17 1967

Mr. Gilbert A. Schulkind
Director
United States Civil Service Commission
Bureau of Inspections
Washington, D. C.

Dear Mr. Schulkind:

This is in reference to your letter file IE:IIP dated February 15, 1967 concerning the decision of your New York Region to classify certain General Investigator positions to GS-12 and the effect of this decision on similar positions in this Service.

The eleven appellants certified by your New York Region at grade 12 have been reclassified in their positions at our New York District Office to General Investigator, GS-12.

A program of measuring the effect of this decision on remaining like positions in the Service has been undertaken with the utmost priority. Specifically, in this regard, we have met with representatives of your office in order to more clearly understand and define the basis used in reaching this decision. Further, in order to maintain continuity, we have related this information through personal discussions to operating and management officials from each of our Regional Offices. The officials are now engaged in discussions with District operating officials to be followed-up by on-site evaluations by these Regional representatives at other locations having investigations work. They have been advised to elicit the advice of representatives from your regional offices upon initiating their review and throughout the review as necessary.

Tentative schedules of their review are being prepared. As soon as we receive copies we will advise you further.

Sincerely,

E. A. Loughran
Associate Commissioner, Management

BJF:lw

13-page case

A-496

For File:

On April 25 and 26 a conference was held with each of the Regional Personnel Officers and Assistant Regional Commissioners, Investigations (also included were Sadye Fracaviglia and Murray Boriskin) for the purpose of discussing their reviews of investigator positions in each of their regions. Messrs. Greene, Burrows, Flag, Benvenuto and Ferro from the Central Office attended also.

Each region had been instructed to make an extensive report outlining the amount of GS-12 work in each office within their regions and the percentage of GS-12 work being performed by each General Investigator. The total number of positions recommended for all regions was 31, of which 11 were positions occupied by incumbents who were performing GS-12 work for more than the majority of their time.

Discussed during the meeting were the methods used, interpretations decided upon and problems encountered. First, the teams reviewed all case work performed in the office for the past two years and identified each of the cases that were found to be GS-12. Secondly, they determined how much time was spent on each GS-12 case and identified each individual spending the time. Any person at any location was given an opportunity to have his position personally desk audited or to discuss his particular case or cases with the survey team. An analysis of the duties of GS-12 work found and the time spent was made by each survey team from which a recommendation for the establishment of GS-12 positions was made. It should be noted here that a real uniformity of interpretation of both the instruction given at the outset and of the classification standards existed with all of the survey teams. An analysis of each of the reports filed by the survey teams was made by the Central Office investigators, and personnel representatives. Mr. Burrows suggested to the survey team that liaison work may not have been given due credit and that a consistent formula for setting up jobs in each office based upon the percentage of work found should be considered. After lunch the survey team met without the Central Office representatives to consider the suggestion put forth by Mr. Burrows. It was their conclusion that liaison work should be weighed heavier and that a total of 51% of GS-12 work would be necessary in a office to set up 1 GS-12 position. In offices where more than one position was being set up 130% would be necessary for 2 positions and 195% for 3 positions set up. These new factors were applied to the recommendation made by each of the Regional teams and resulted in the addition of 1 position at St. Albans, 2 positions at New York, 1 position at Chicago, 1 position at San Francisco and 1 less position at Miami, Philadelphia and Washington. Thus changing the overall total of recommended positions to 33 and the total of persons found to be spending the majority of their time on GS-12 work to GS-13.

R

The thirteen General Investigators found to be spending a majority of their time on work evaluated at GS-12 and who are to be reclassified are:

NAME	LOCATION
*Robert J. Lyness	New York
*Jack J. Ricciardi	New York
Joseph Skosnic	Newark
George J. Feulner	St. Albans
Ralph B. Ross	Miami
Victor A. Westmeyer	Detroit
James R. Killeen	Detroit
John J. Burke	Chicago
William F. Mayberry	Chicago
Richard R. Thut	Chicago
Jack F. Slattery	San Francisco
John N. Barnes	Los Angeles
Gene B. Pyeatt	Los Angeles

*Pending completion of Civil Service Commission Bureau of Inspections review in New York.

Ben Ferro

cc: Inv. appeal file
cc: Inv. Work file

S? ? /

REGIONAL COMMISSIONERS:
Burlington, Vermont - Richmond, Virginia
St. Paul, Minnesota - San Pedro, California

CO 807-P
May 31, 1967

James F. Greene
Deputy Associate Commissioner, Domestic Control

Investigative Assignments

ATTENTION: Deputy Regional Commissioner

The reclassification of certain positions to nonsupervisory investigator, GS-12, necessitates institution of some procedural changes for regional inspection and audit purposes.

AM 2301.48.01 is being amended by adding paragraph d., effective July 1, 1967, which will require that investigators record on the reverse of Form G-22.12, Individual Four Employment Record, the name, relation file number, and hours worked on any assignment identified as being at the GS-12 level by the officer having supervisory responsibility for work at that level. The supervisory officer shall initial and date all such notations as evidence of his unqualified determination that the work performed was at that level for the period recorded. If the supervisory officer is not in complete agreement with the investigator's time charge, he shall record and initial, alongside the investigator's notation, a brief note as to the number of hours which he has determined were spent on GS-12 level work.

The Investigator's Handbook will be revised to implement the foregoing. Your comments on the proposed changes, which are set out below, should reach this office by June 12, 1967.

Paragraph II - ACTION ON RECEIPT OF INVESTIGATIVE LETTER, 15.1-1, Investigator's Handbook, to be amended by inserting the following language after the fourth sentence:

"Officers having supervisory responsibility for work at the GS-12 level shall, utilizing standards promulgated by the Civil Service Commission for General Investigator GS-1810-12 identify such assignments by writing the number '12' in ar after the word 'warranted', and dating and initialing the pared manfold Form G-690 thus:

Investigation Warranted (12)

Classification Approved 6/1/67

S

"All copies of Form G-600 covering work assignments which were not initially so identified, but which later became clearly identifiable as being at the GS-12 level, shall be similarly noted to reflect the date when such identification was actually made and the initials of the supervisory officer who made the determination.

"Work assignments should be consistent with the grade of the investigator. For instance, no work at the GS-12 level should be assigned (except for training purposes) to a GS-11 investigator unless workloads at the GS-12 level exceed available GS-12 manpower. While it may be necessary to deviate from this rule in order to meet deadlines or comply with priorities, supervisors shall insure that assignments to higher grade work will not exceed 20% of the investigator's time. Report in the Monthly Activity Report, under the caption 'Special Items', all situations where manpower limitations, investigative priorities, or other factors preclude adherence to this limitation."

The following sentence to be added at the end of the first paragraph, page 13-7, Investigator's Handbook, "IX - G-23 LINE":

"When the Form G-600 bears a notation '(12)' followed by the supervisory officer's initials and a date, the G-23 line number shall be recorded to so indicate (e.g., '508 (12)')."

cc: Assistant Commissioner, Administration
Please amend AM 2301.48.01 as indicated above.

cc: Personnel Officer
ATTENTION: Position Classification Specialist

Review Team

A-500

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

DATE: July 16, 1968

TO : Review Committee

FROM : Position Classification Work Group

SUBJECT: Position Classification Program Review

Attached is our Action Plan in revising and improving position classification and position management programs within the Immigration and Naturalization Service.

In arriving at our recommendations and conclusions specific attention was given to the CSC Inspection Report, current policies and practices of the Service, and immediately identifiable areas of concern brought out through discussions within the work group.

We believe that acceptance and implementation of the proposals outlined in the attached will greatly improve the effectiveness of these program areas.

Respectfully submitted,

John Pyle

John Pyle, Chairman

Carl Burrows

Carl Burrows, Member

R A Burchard

Robert Burchard, Member

Benedict J. Perro

Benedict Perro, Member

SUGGESTIONS FOR REVISING AND UPDATING THE CLASSIFICATION AND POSITION MANAGEMENT PROGRAMS WITHIN THE IMMIGRATION AND NATURALIZATION SERVICE

PLAN OF ACTION

I. COMMUNICATION FROM TOP MANAGEMENT AT THE CENTRAL OFFICE, REISSUED BY REGIONAL COMMISSIONERS TO ALL EMPLOYEES THROUGH CHANNELS STATING AND EXPLAINING CURRENT POLICIES AND FURTHER PLANS FOR THE PROGRAMS.

A. This communication should include:

1. A statement of confidence in the plan

2. Outline of current activities

3. Outline of planned activities

B. Target date:

1. Commence upon approval of the action plan

2. Issued within 60 days

II. DELEGATION OF POSITION CLASSIFICATION AUTHORITY AND RESPONSIBILITY

A. Action

1. Department to delegate authority and responsibility to Commissioner to take final action on all General Schedule positions, GS-1 through GS-15 (except attorney positions), and all Wage Administration positions.

2. Commissioner to delegate authority and responsibility to each Regional Commissioner to take final action on all General Schedule positions, GS-1 through GS-12 (except attorney positions), and all Wage Administration positions.

3. Review all issuances pertaining to this subject and revise accordingly.

4. Review and identify whether additional training should be provided the classification staff throughout the Service prior to assuming the additional delegated authority.

B. Regarding II.A., the Department Chief of Classification should be responsible for identifying needs and suggesting and providing training personally or through CSC training courses.

C. Target Date for Completion

1. Training plan - by September 30, 1968

2. Training accomplished - by December 31, 1968, if possible

3. Written directives - by September 30, 1968

4. Implementation of new authority - by December 31, 1968, provided necessary manpower is available (see Item XII)

III. DELEGATION OF POSITION MANAGEMENT AUTHORITY AND RESPONSIBILITY

A. Action

1. Commissioner to delegate authority and responsibility for position control to each Regional Commissioner, commensurate with the delegated classification authority and responsibility.

2. Review all issuances pertaining to this subject and revise accordingly.

3. Determine training needs of management and line officials who will be making these decisions, and develop a training plan.

B. III.A. should be implemented by a team made up of the INS Chief of Classification and one Operations official.

C. Target Date for Completion (must coincide with delegation of classification authority)

1. Review - by September 30, 1968

2. Necessary training accomplished - by December 31, [illegible]

3. Written directives - by November 30, 1968

4. Implementation of new authority - by December 31, 1968

IV. SUPERVISORY PARTICIPATION IN POSITION CLASSIFICATION AND POSITION MANAGEMENT

A. Action

1. Reemphasize, develop, and sustain supervisory interests in these programs throughout the Service. Gain their understanding and acceptance in the total classification process.

2. Revise and/or prepare written directives on these subjects as needed.

3. Evaluate needs and develop a training plan which insures that all supervisors are fully acquainted with their roles in position classification and position management. Make it clear through written directives to each INS supervisor that his is a key role and obligation and, therefore, he will be evaluated on his effectiveness in meeting his obligations.

4. Give priority to "Conference Series Guide #17; Subject: The Personnel Management Function - Position Classification", which is now in use. Revise to include any necessary material on position management.

5. Investigate availability of courses on these subjects from CSC and other agencies and, if so, arrange for INS line officials to participate.

B. Team approach to implementing IV.A. should include one operating official, one Classification Specialist, and Training Officer.

C. Target Date for Completion

1. Training Plan - by September 30, 1968

2. Training accomplished - continuing program to indoctrinate new supervisors

3. Written directives - by December 31, 1968

V. POSITION CLASSIFICATION STANDARDS

A. Action

1. Insure that classification staff members and operating officials have a clear understanding of classification standards now in use.

2. Urge CSC to complete standards studies in the following occupations as soon as possible:

a. Immigrant Inspector
b. Immigration Patrol Inspector

3. Review other classification standards of major significance and issue supplemental guides where needed.

4. Develop new agency guide for classification of GS-1810 non-supervisory investigator positions and request that CSC Standards Division abolish current single agency standards. Clear guide with CSC Bureau of Inspections.

5. Continue dialogue with Department and with CSC Bureau of Inspections and Standards Division concerning classification, application, and/or updating of standards of concern to Service.

B. Team approach to implementation of V.A. made up of one Classification Specialist from Central Office, one Classification Specialist from Department, and one Operations official.

C. Target Date for Completion

1. Analysis concerning standards interpretation and plan for improvement - by December 31, 1968

2. New standards (GS-1816 - 1896) - schedule controlled by CSC

3. Agency guide for GS-1810 - by December 31, 1968

4. Identify needs for issuance of other agency supplemental guides - by December 31, 1968

VI. POSITION CLASSIFICATION APPEALS

A. Action

1. Study of classification appeals filed by Service employees during the periods 1966 through 1968. Determine:

a. causes of appeals

b. common characteristics

c. occupations involved

d. trends that may be appearing

e. whether or not position descriptions were adequate and accurate

f. communication problems between supervisors and employees.

B. Team approach to VI.A. made up of one Service Classification Specialist and one from Department.

C. Target Date for Completion

December 31, 1968

VII. STANDARDIZED POSITION DESCRIPTIONS

A. Action

1. Determine appropriateness of standardized position descriptions:

   a. where and when they should be permitted

   b. in what form they should be permitted

   c. who should prepare them

2. Revise and/or prepare written directives on this subject as needed.

3. Develop position description guides for occupations selected which include sample copies of standardized position descriptions and how they are to be used and modified.

B. Team approach to VII.A. made up of one Service Classification Specialist and appropriate Operations officials.

C. Target Date for Completion

1. Written directives - December 31, 1968

2. Sample position descriptions with instructions - will depend upon priority of needs and completion of standards studies - begin work on investigator series by January 15, 1969.

VIII. ACCURACY OF CURRENT POSITION DESCRIPTIONS

A. Action

1. Review a sampling of supervisory and nonsupervisory position descriptions of each major occupation.

2. Determine adequacy of position descriptions for classification purposes.

3. Select one region for an on-site check of the accuracy of these position descriptions (select positions at regional, district, and sector levels).

4. Use report as a guide in conducting subsequent studies in the other three regions.

B. Team approach made up of one Position Classification Specialist from the Department, one Position Classification Specialist from the Service, one Operations official.

C. Target Date for Completion

1. Begin - October 1, 1968

2. Completed - before next Whitten Review

IX. PREPARATION OF POSITION DESCRIPTIONS

A. Action

1. Develop new guidelines for use by supervisors on the preparation of position descriptions. Provide examples as well as narrative on the format, and content of supervisory P.D.'s versus nonsupervisory. Make sure the formats used have a direct tie-in with evaluation factors contained in supervisory and nonsupervisory classification standards.

2. Revise and/or prepare written directives on this subject as needed.

3. Charge immediate supervisors with the responsibility for initial preparation of position descriptions with assistance from employees and higher level supervision. Explain the importance of accurate position descriptions.

B. Study made and implemented by one Service Position Classification Specialist.

C. Target Date for Completion

1. Begin - August 15, 1968

2. Complete written directives - November 30, 1968

X. ORGANIZATIONAL INFORMATION

A. Action

1. Develop plans for preparing and/or updating organizational and functional charts at all levels of the Service. Include in plan maintenance of charts at their respective levels; Central Office, regions, districts, and sectors.

2. Develop plan for maintenance of organizational charts at respective levels within the Service.

3. Prepare and/or revise written directives on this subject.

B. Carried out by one Position Classification Specialist.

C. Target Date for Completion

1. Begin - September 30, 1968

2. Completed written directives - November 30, 1968

XI. ANNUAL REVIEW OF POSITIONS AND PROGRAM EVALUATION

A. Action

1. Review cyclic review system and modify as necessary.

2. Require a yearly site audit of at least 25% of all positions including i.a. positions individually (a different 25% each year).

3. Develop a program evaluation system which requires the Central Office to evaluate the adequacy of the classification and position management programs in the Regions. Require an evaluation of one region per year.

4. Prepare and/or revise written directives on this subject.

B. Team approach made up of one Department Position Classification Specialist and one Central Office Position Classification Specialist.

C. Target Date for Completion

1. Review of System - December 31, 1968

2. Begin implementation of system - January 31, 1969

3. Program evaluation system - June 30, 1969

4. Begin implementation of system - July 1, 1969

XII. STAFFING REQUIREMENTS - In order to meet the existing and long-range needs of the program

A. Action

1. Establish additional position classification specialist positions as follows:

a. two in Central Office
b. one in Northeast Region
c. one in Southeast Region
d. one in Northwest Region
e. two in Southwest Region

2. Fill positions as soon as possible.

3. Provide necessary training.

B. Target Date for Completion

1. Immediate efforts to fill positions

2. Have new staff functioning by July 1, 1969

XIII. CONCLUSIONS AND RECOMMENDATIONS

A. Action plan cannot be successfully implemented or maintained unless additional staff is authorized as suggested.

B. It is the opinion of the work group that changing the present system alone will not result in an immediate halt to classification appeals within the Service.

C. Action plan must be monitored throughout all stages of development, implementation, and follow-up.

D. Complete action as soon as possible on proposed Department Position Classification Appeals Policy.

E. Consideration should be given to asking that CSC detail [illegible] employees on a reimbursable basis during the developmental stages of the plan.

F. Use current Classification Work Group as a continuing Ad Hoc Committee to review and evaluate all actions proposed during the developmental, implementation, and follow-up stages of the plan.

G. Because of impact of CSC Regional decisions across INS Regional organizational lines and because of the overlap of jurisdiction in INS Regions to more than one CSC Region, request that CSC Central Office provide special coordination for processing appeal actions of INS employees assigned to positions which have inter-regional impact.

H. Dialogue should be established and continued, as appropriate, among the Civil Service Commission, the Department, the Service, and unions.

Form DJ-150
(Ed. 6-6-61)

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Mr. Edward A. Loughran
Associate Commissioner, Management
Immigration & Naturalization Service

DATE: December 21, 1966

FROM : Ernest C. Friesen, Jr.
Assistant Attorney General
for Administration

SUBJECT: Review of Position Classification Program

During the period October 24 to November 4, 1966, a team from the Department's Classification Section conducted a review of your position classification program. I am pleased to advise you that, with minor exceptions, they found your program is sound, meeting the needs of management and generally conforming to Civil Service Commission requirements. Enclosed, for your information, are two copies of the report of the review.

Please let me know within 90 days as to the action you take or propose to take with regard to the findings and recommendations in the report. I would also like to have the benefit of any comments you care to make concerning the review.

Enclosures

Enclosure No. 1

Policies & Procedures

Classification Section

Immigration & Naturalization Service

The Service's administrative manual contains a section devoted to position classification, revised to February 1963. This section offers a rather complete and logical presentation of a classification program, starting with a statement of purpose, authorities for policy and classification, a description of the division of responsibility in terms of the Department, the Central Office of INS, the regional offices, district offices, and overseas stations. In the area involving Classification Act positions, the manual covers how positions are classified, classification as an aid to management, how descriptions are prepared, how classification reports and surveys are effected, and appeal procedures. In addition, a page and a half is devoted to Wage Board pay systems.

The section was reviewed for basic philosophy, procedures and practices. The presentation is logical and comprehensive. However, it is suggested that a review of this section may be appropriate in order to update ideas presented, e.g., it was noted that under the sub-section devoted to Wage Board, no mention is made of classification appeals to the Department. (See Wage Board Pay Administration Manual, revised, March 1966.)

Each of 22 employees whose positions were desk audited was asked to complete a short questionnaire. The results, summarized in Enclosure 5, suggest that Central Office employees are well informed on the subject of position classification.

The Classification Section consists of a supervisor, [illegible] classifier, and one clerk. They are supported by six classifiers in the field. There is relative stability of program and purpose, and new programs, organizational changes, and fluctuating workloads are the exception rather than the rule. However, as work measurement statistics reflect, the workload increases with tourism, population, and commerce, each year. The division of work is approximately as follows: about 10% of INS positions are classified by the Department; about 30% by the Central Office, INS; and about 60% by the regional offices. For example, in the Southeastern Region, 10 positions were classified by the Department (one Public Law, three supergrades and six in GS-14 and GS-15); 21 positions were classified by the Central Office (GS-11, 12, and 13); and about 55 positions were classified by the Regional Office (GS-3 through GS-9).

There is no cyclic position review planned for the current Fiscal Year. However, in Fiscal Year 1966, a limited review was made involving the systematic examination of positions by Central Office supervisors, with subsequent spot-audits as were deemed appropriate by the Classification Office. In addition, each year there is the "Whitten" review of positions by supervisors at all levels, which, of course, results in classification audits or limited surveys. Because of

the small size of the Central Office, the classification staff can readily attend to needed job changes and position reviews. The Central Office classification staff has no budget for travel, and travel is authorized only in very unusual cases. On the other hand, classifiers in the regional offices travel constantly from district office to district office. Thus, the Central Office staff serves primarily as a final classification review for the field and also provides a tight position control.

Owing to the comprehensive work statistics and reports that flow in from the field to the Central Office - an INS inspection report system (which provides periodic reports), classification reports, per se, from the regional offices, and work requests from the field - the Central Office classifiers are well briefed on most aspects of the work in the field. Perhaps, because of this, the Classification Section is deeply involved in the position control function and works closely with the operating personnel for final-decision-making and with the Budget Section for recommendations in that field.

It is interesting to note that while authority is delegated to the field to classify positions to grades GS-1 through GS-9, because the Central Office classification staff maintains a position control on the number and distribution of field jobs, it is in a position to either approve or disapprove field staff recommendations on grades GS-5 through GS-9. Only at GS-1 through GS-4 does the field classifier make a complete and unreviewed technical recommendation.

The interest of the Central Office in statistical field data and work measurement reports has had a marked effect upon the Personnel Office including the Classification Section. In addition to maintaining a logical and timely control upon positions, the classification staff maintains statistics which reflect trends in the movement of persons from grade to grade, average grade level of the Service, and other things. Their awareness and use of work measurement statistics provides them with the means to quantify some of the factors of judgment involved in grade determinations. The use of statistics is an excellent bolster to sound classification judgments. There is, of course, the possibility of over-use of such data as a means to measure jobs, to the neglect of other, and at times, more appropriate, classification factors.

There is a good working relationship between the classification staff and top management and middle management. There is also a close working relationship between the Placement and Classification Sections within the Central Office as well as other segments of Personnel and Administration.

Position descriptions are maintained in loose-leaf binders, identified by organization. There are very few organizational charts in these PD books. There is little need for them, however, in view of the ready availability of current data on positions and personnel and current tables of organization as reproduced from Kardex files. There are individual PD books for Central Office organizations and one PD book for those descriptions used throughout the Service. For field PD's there are folders, labelled by region and district and in one instance, by a populous occupation, Border Patrol Inspectors. These are the field PD's which have been reviewed for allocation. Thus, there is not in their files a complete set of field PD's, for there are many positions up

through GS-9 and particularly at the lowest grades, which the Central Office never has to review.

Published guidelines, CSC classification standards, work measurement statistical data in various forms, position control data, manuals covering wage administration, and the compendium of policy and procedures in the Service's "Administrative Manual" are all available and appear current.

The classification staff has been responsive to CSC guides on job engineering for the purpose of providing equal employment opportunity for the disadvantaged. In short, in the last year they have created some GS-1 and 2 jobs in three areas: mail, clerk and messenger combinations, and clerk and typist combinations.

U.S. IMMIGRATION AND NATURALIZATION SERVICE EMPLOYEES
LODGE NO. 1917
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
P. O. BOX 618, ENGLISH ST. STATION
NEW YORK, N. Y. 10034

July 27, 1967

Mr. Reginald W. Parnell
Commissioner, Central
Washington, D.C.

Dear Mr. Parnell,

During June of this year, the District Director here informed Investigator George Tarrant that he had been re-classified by INS to GS-12 field investigator. As you know, Mr. Tarrant was one of the original appellants of this Lodge who was audited by the Civil Service Regional Office here in New York. On Feb. 1, 1967 he was notified by the CSC that he had been denied the GS-12 grade. Mr. Tarrant chose not to ask for re-consideration and accepted the CSC decision.

We believe that the re-examination of the qualifications of Investigator Tarrant and his ultimate re-classification by the INS to GS-12 field investigator was a courageous and equitable action by the Service that was applauded by every member of this Union here in New York. There is no doubt that the CSC is not adequately prepared or versed to evaluate Service investigative work.

There are still many appellants who are eligible for re-grading by reason of their past performance and anticipated future performance. They had been evaluated under very severe CSC guidelines which even the CSC chose to disregard when evaluating some of the investigators in other INS Districts. We believe that this was also a commendable and equitable action. We hope that this same courtesy is available to investigators here in New York also.

Accordingly, we are forwarding copies of resumes and supporting data of the unsuccessful appellants here in New York. We have also asked to be heard by the Regional Commissioner and the District Director here in New York for their study and opinion. We hope you will judge and evaluate them accordingly and arrive at a decision which does justice to each man's abilities and dedication to the Service.

Sincerely,

Jack T. Lazaris, President

cc: P.A. Gagnon DD NY
cc: Leo Bagley HQO

W

A-514

Bertels

AIIS 70/66-C
November 3, 1967

Robert A. Daniels, Investigator,
Investigations Branch, New York

P. A. Esperdy, District Director,
New York

Position Reclassification.

I have been requested by you through Mr. Jack Lazarus, President, AFGE Lodge 1917, to express my opinion of the proper grade level of the investigative work performed by you in the New York District for the period covered in your memorandum, with attachments, furnished to me by Mr. Lazarus on July 27, 1967. I have agreed to do so with the clear understanding that it is not an official decision of the Immigration & Naturalization Service and does not bind the Service or the Civil Service Commission. This is merely my own personal opinion based on my experience in the Service.

I have carefully reviewed the material submitted by you and have discussed your situation with the Chief in charge of your section and with the Assistant District Director for Investigations.

In the light of the language set forth in the standards for GS-11 and GS-12 investigator work, I can reach no other conclusion than that the work performed by you is at the GS-11 level. You must bear in mind that the standards for the GS-11 level work are quite high and require performance of a very exacting nature. Concededly, the cases assigned to you were difficult and required a great deal of ingenuity but they did not involve the extremely high degree of quality described in the GS-12 standards. Incidentally, I am personally familiar with some of the cases described in your presentation and know what are involved.

cc: Mr. Sol Marks, Deputy District Director
Mr. P.J. Wroblewski, Assistant District Director for Investigations
Mr. Jack Lazarus, President, AFGE Lodge 1917

PAEsperdy

NYC 71/[illegible]-C
February 21, 1968

Joseph J. O'Malley, Investigator,
New York, N. Y.

P. A. Esperdy, District Director,
New York, N. Y.

Position Classification

I was requested on July 27, 1967 by you through Mr. Jack Lazarus, President, Local Lodge #1917, to express my opinion of the proper grade level of the investigative work performed by you in the New York District for the period covered in your memorandum, with attachments, furnished to me. I had agreed to do so with the clear understanding that it was not an official decision of the Immigration and Naturalization Service and did not bind the Service or the Civil Service Commission. It was to be merely my own personal opinion based upon my experience in the Service.

Press of other work has not permitted me heretofore to furnish you my opinion. Since receiving your request, however, I have received an instruction dated December 15, 1967 from the Northeast Regional office to which was attached recommendations dated November 27, 1967 from the Civil Service Commission to the Immigration and Naturalization Service. The spirit and intent of these instructions permit me to give you a more official opinion.

The Civil Service Commission's recommendation is to the effect that when an investigator files a classification appeal, he should furnish a case summary such as you have furnished and such "case summaries which present adequate information should be sent to a responsible official in the New York District office with a request that he review the summaries and give an official INS position regarding them." Although you do not have presently pending an appeal with the Civil Service Commission, I am applying the recent instruction nunc pro tunc on the theory that if it is desirable that it be done now, it likewise should have been done at the time your appeal was pending.

I have very carefully considered the issues presented by you and have had the necessary discussion with your supervisors. In the light of the language set forth in the standards for GS-11 and GS-12 investigator work, I can reach no other conclusion than that the work performed by you is at the GS-11 level. You must bear in mind that the standards for the GS-11 level work are quite high and require performance of a very exacting nature. Concededly, the cases assigned to you were difficult and required a great deal of ingenuity but they did not involve the extremely high degree of quality described in the GS-12 standards.

With reference to your statement that the Civil Service Commission found that the very same cases which you were carrying were of a grade GS-12 level when the Commission made its decision in the case of another investigator, you are, it is assumed, referring to the Peter Tinen marriage fraud situation. Your assignment is easily distinguishable from that other investigator who had the basic Peter Tinen situation and its major facets assigned to him and under his control. The Greek fraud cases that were assigned to you were principally the beneficiaries of the marriage fraud and not the principals and your area of operation was limited in scope. Therefore, your work cannot properly be equated with the other investigator who was classified at the GS-12 level.

cc: F. W. Wroblewski, Assistant District Director for Investigations

cc: Edward Kavazanjian, President, AFGE Lodge 1917

cc: Edward A. Clark, Deputy Regional Commissioner, NERO, Burlington, Vt.

cc: Joseph N. Benvenuto, Personnel Officer, Central Office

Vincent A. Burke, Investigator,
New York, N.Y.

NYC 71/20-C
February 21, 1968

P.A. Esperdy, District Director,
New York, N.Y.

Position Classification

I was requested on July 27, 1967 by you through Mr. Jack Lazarus, President, APGE Lodge No. 1917, to express my opinion of the proper grade level of the investigative work performed by you in the New York District for the period covered in your memorandum, with attachments, furnished to me. I had agreed to do so with the clear understanding that it was not an official decision of the Immigration and Naturalization Service and did not bind the Service or the Civil Service Commission. It was to be merely my own personal opinion based upon my experience in the Service.

Press of other work has not permitted me heretofore to furnish you my opinion. Since receiving your request, however, I have received an instruction dated December 15, 1967 from the Northeast Regional office to which was attached recommendations dated November 27, 1967 from the Civil Service Commission to the Immigration and Naturalization Service. The spirit and intent of those instructions permit me to give you a more official opinion.

The Civil Service Commission's recommendation is to the effect that when an investigator files a classification appeal, he should furnish a case summary such as you have furnished and such "case summaries which present adequate information should be sent to a responsible official in the New York District office with a request that he review the summaries and give an official INS position regarding them. Although you do not have presently pending an appeal with the Civil Service Commission, I am applying the recent instruction nunc pro tunc on the theory that if it is desirable that it be done now, it likewise should have been done at the time your appeal was pending.

I have very carefully considered the resume presented by you and have had the necessary discussion with your supervisors. I find that for a number of years past and continuing up to the present time you have spent better than 50% of your time in substituting as a supervisor in the absence of Supervisory Investigator Keenan, Investigator Tetsro and Investigator Koerber. Supervisory Investigator Keenan, of course, is classified as a trade 12 level. In my judgment, Investigators

Totaro and Koerber have been performing full time Supervisory Investigator work of a GS-12 level. It is my conclusion that in the main your other tasks of supervising the non-priority work, while exacting, delicate and requiring considerable technical knowledge, is by and large of a grade GS-11 level. Somewhere between 5 and 10% of your non-priority work in the course of a year could be properly classified at the GS-12 level. However, in my judgment, because of the better than 50% of the time that you have performed in relieving Investigators Keenan, Totaro and Koerber, you should have been classified at the GS-12 level. I am submitting your case to the Regional Office for further consideration.

cc: F.W. Wroblewski, Assistant District Director for Investigations

cc: Edward Kavazanjian, President, AFGE Lodge 1917

cc: Edward A. Clark, Deputy Regional Commissioner, NERO, Burlington, Vt.

cc: Joseph N. Benvenuto, Personnel Officer, Central Office

A-519

Alexander Flasterstein, Investigator,
General Investigations Section, New York

NYC VI/20-S
November 8, 1967

P.A. Esperdy, District Director,
New York

Position Reclassification

I have been requested by you through Mr. Jack Lazarus, President, AFGE Lodge 1917, to express my opinion of the proper grade level of the investigative work performed by you in the New York District for the period covered in your memorandum, with attachments, furnished to me by Mr. Lazarus on July 27, 1967. I have agreed to do so with the clear understanding that it is not an official decision of the Immigration & Naturalization Service and does not bind the Service or the Civil Service Commission. This is merely my own personal opinion based on my experience in the Service.

I have carefully considered the material submitted by you and have discussed the work performed by you with the Assistant Chief having supervision over your work and with the Assistant District Director for Investigations.

I have reached the conclusion that your classification as an Investigator at the GS-11 level is the proper one. For the purposes of classification I have not given you any credit for the period September 21, 1966 to November 20, 1966 while you were detailed by me as an acting Trial Attorney. This is not regarded as investigative work and was not a part of your continuing duties. It was a one-shot, one-time detail. Your performance from August 31, 1966 to September 20, 1966 as an "aide" to Assistant Chief Johnson cannot be considered as performance in the GS-12 category. You were performing tasks to assist Assistant Chief Johnson who was in a GS-12 category and you did not have nor exercise the full responsibilities of a GS-12 position. With reference to your claim that during these two periods of time you might have been assigned and been performing work on cases that were in the GS-12 level, you are advised that your conclusion is erroneous since the work that you performed in the balance of the time was at a GS-11 level. It is to be more correctly assumed that the same type of case would have been assigned to you.

A careful analysis of the cases you have delineated as being in the GS-12 level leads me to a different conclusion than you have reached. I believe if you will carefully read the standards for a GS-11 investigator you will see that the cases you have mentioned fall clearly within that category. I happen to have been personally involved

EXHIBIT AA

in the Soll & Sorell Co. case and the International Date Processing Institute case and I am fully familiar with what was involved. I have also gone over the work that you performed in the Yahmt Voli case and cannot conclude other than that the tasks assigned to you in connection with that case were no higher than a GS-11 level. The Phillip VELLA case is just a good CS-11 type case.

cc: Mr. Sol Marks, Deputy District Director
Mr. F.W. Wroblewski, Assistant District Director for Investigations
Mr. Jack Lazarus, President, AFGE, Lodge 1917

Frank E. Bememio, Investigator,
Investigations Branch, New York

MFC 71/20-C
November 8, 1967

P.A. Esperdy, District Director,
New York

Position Reclassification

I have been requested by you through Mr. Jack Lazarus, President, APGE Lodge 1917, to express my opinion of the proper grade level of the investigative work performed by you in the New York District for the period covered in your memorandum, with attachments, furnished to me by Mr. Lazarus on July 27, 1967. I have agreed to do so with the clear understanding that it is not an official decision of the Immigration & Naturalization Service and does not bind the Service or the Civil Service Commission. This is merely my own personal opinion based on my experience in the Service.

I have carefully reviewed the material submitted by you and have discussed your situation with the Chief in charge of your section and with the Assistant District Director for Investigations.

In the light of the language set forth in the standards for GS-11 and GS-12 investigator work, I can reach no other conclusion than that the work performed by you is at the GS-11 level. You must bear in mind that the standards for the GS-11 level work are quite high and require performance of a very exacting nature. Concededly, the cases assigned to you were difficult and required a great deal of ingenuity but they did not involve the extremely high degree of quality described in the GS-12 standards. I may add that I am personally familiar with a number of the cases that you worked on and I do not intend by the foregoing to in any way downgrade the importance of the cases. What I am saying, however, is that they do not meet the extremely high criteria for GS-12 classification.

cc: Mr. Sol Marks, Deputy District Director
Mr. F.W. Wretlewski, Assistant District Director for Investigations
Mr. Jack Lazarus, President, AFGE Lodge 1917

EXHIBIT BB

NYC 71/20-C
February 21, 1968

Joseph A. Farrell, Investigator,
New York, N. Y.

P. A. Esperdy, District Director,
New York, N. Y.

Position Classification

I was requested on July 27, 1967 by you through Mr. Jack Lazzara, President, AFGE Lodge #1317, to express my opinion of the proper grade level of the investigative work performed by you in the New York District for the period covered in your memorandum, with attachments, furnished to me. I had agreed to do so with the clear understanding that it was not an official decision of the Immigration and Naturalization Service and did not bind the Service or the Civil Service Commission. It was to be merely my own personal opinion based upon my experience in the Service.

Press of other work has not permitted me heretofore to furnish you my opinion. Since receiving your request, however, I have received an instruction dated December 15, 1967 from the Northeast Regional office to which was attached recommendations dated November 27, 1967 from the Civil Service Commission to the Immigration and Naturalization Service. The spirit and intent of these instructions permit me to give you a more official opinion.

The Civil Service Commission's recommendation is to the effect that when an investigator files a classification appeal, he should furnish a case summary such as you have furnished and such "case summaries which present adequate information should be sent to a responsible official in the New York District office with a request that he review the summaries and give an official INS position regarding them." Although you do not have presently pending an appeal with the Civil Service Commission, I am applying the recent instruction nunc pro tunc on the theory that if it is desirable that it be done now, it likewise should have been done at the time your appeal was pending.

I have very carefully considered the reports presented by you and have had the necessary discussion with your supervisors. In the light of the language set forth in the standards for GS-11 and GS-12 investigator work, I can reach no other conclusion than that the work performed by you is at the GS-11 level. You must bear in mind that the standards for the GS-11 level work are quite high and require performance of a very exacting nature. Concededly, the cases assigned to you were difficult and required a great deal of ingenuity but they did not involve the extremely high degree of quality described in the GS-12 standards.

cc: F. V. Wroblewski, Assistant District Director for Investigations

cc: Edward Kavazanjian, President, AFGE Lodge 1917
cc: Edward A. Clark, Deputy Regional Commissioner, NERO, Burlington, Vt.
cc: Joseph M. Pennypacker, Personnel Officer, Central Office

CC

A-523

121
7/24/68

Thomas F. Roney
Associate Deputy Regional Commissioner, Management

E. A. Loughran
Associate Commissioner, Management

Classification appeal of 16 grade GS-11 General Investigators in New York District.

We have reviewed the material submitted by the appellants in response to our inquiry as to the accuracy and completeness of the position descriptions currently assigned them.

Without benefit of the material which they have apparently submitted to the Civil Service Commission and in view of their very general responses that have been made to our inquiry, we do not feel that we have adequate information to provide the Commission with a meaningful response to each case. In view of this, we feel specific site audits of each of the appellants positions should be made and the findings subsequently discussed with the District Director in New York. These findings will then be the basis for our replies to the Commission. We have requested that in order to complete these site audits, the New York Region of the Commission grant us until August 30 to provide the necessary information.

Please have the Regional Classification Specialist in the New York District Office during the week of August 5 to participate with a Central Office Classification Specialist in completing the desk audits.

Please advise the District Director in New York to instruct the appellants that their positions will be desk audited during the week of August 5 and that they should provide the interviewing classifier with copies of work that they feel represents assignments above grade GS-11 at that time.

If possible, the Classification Specialists will take this opportunity to review the positions occupied by General Investigators performing Private Bill work, for the purpose of updating the existing job descriptions assigned.

cc: Mr. Farrow
cc: New York Region C.S.C.

DF:sjo

DD

C12.1-C

AUG 2 3 1968

T. E. Romey, Associate Deputy Regional Commissioner, Management [illegible]

E. A. Leaphart, Associate Commissioner Management

Classification Appeal [illegible] dated July 17, 1968.

Reference is made to the recent review of 14 General Investigator positions in the New York District Office conducted by classification specialists from the Northeast Regional Office and from the Central Office.

Upon review of the cases presented, it has been determined that none of the 14 appellants had been spending a majority of his time on work considered to be at the grade GS-12 level. Our response to the New York Region of the Commission concerning these appeals will, of course, reflect these findings.

A discussion of some of the cases pinpointed by the appellants' supervisors also indicated that some grade GS-12 level work was being performed in the General Unit and that based on the period studied, if this work were funneled into one position, the establishment of such a position at the grade GS-12 level would be justified.

As indicated above, the period reviewed covered only three months and, therefore, is not necessarily considered representative in establishing overall long-range needs. Please have the District Director in New York review the present and anticipated workloads in the General Unit to determine: (1) the amount of grade GS-12 level work in the General Unit and (2) whether it would be operationally feasible to assign this work to one or more newly established grade GS-12 positions. Please forward the District Director's findings as soon as possible.

cc: Mr. Burrows
cc: 637.2
EF: nlc

EE

UNITED STATES GOVERNMENT

Memorandum

A-525

NOV - 3 1968

AM 12 1 2 3 4 5 6 PM

NYC 71/20-C

DATE: November 6, 1968

TO : Associate Deputy Regional Commissioner,
Management, Burlington, Vermont

FROM : P. A. Esperdy, District Director
New York, New York

SUBJECT: GS-12 Grade Level Work in General Investigations; your NE 71/20.3-C dated August 29, 1968.

A review of the work in the General Investigations area has determined that there is sufficient grade GS-12 level work to support three Investigators. This was arrived at by examining the more important cases handled by General Investigations in the past six months and estimating the time consumed on such cases. Based on past experience of the volume and types of cases falling within the General Investigations area, it is my estimate that we will have enough cases requiring the services of GS-12 Investigators to warrant the addition of three Investigators at that grade in General Investigations. Some examples of these matters are reflected in the appended resumes.

It is therefore recommended that there be established in General Investigations three GS-12 Investigator positions.

P. A. Esperdy

att.

FF

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

A-526

UNITED STATES GOVERNMENT

Memorandum

NE 71/1.3

DATE: November 21, 1968

TO : Associate Commissioner, Management
Central Office

FROM : Thomas S. Roney, Associate Deputy Regional Commissioner, Management, Burlington

SUBJECT: Authorized Force - New York District

Attention: Personnel Officer

Reference is made to your letter of August 23, 1968, regarding GS-12 level work being performed in the General Unit of the Investigations Branch, New York District.

During the reviews of 14 General Investigator positions conducted by the Central Office and Regional Office Classification Specialists, it became apparent that GS-12 work was being performed in the General Unit. Since the period covered was three months, this was not considered representative for determining the over-all needs in this area.

Attached is copy of a memorandum forwarded by the District Director recommending the establishment of three General Investigator GS-1810-12 positions for the General Unit. Mr. Esperdy's recommendation is based on his knowledge of past volume of cases falling into this level of complexity and his estimate of future needs to accomplish this level of work. Also attached are resumes of sample cases which, in the District Director's opinion, are indicative of GS-12 complexity.

We have reviewed the case samplings submitted, and agree that several of the cases cited are delicate in nature, involve multiple fraud issues and concern individuals of national or international interest. In other cases, because of the brevity of the items, the complex issues are not readily apparent, but the implications that exceptional resourcefulness and ingenuity are required to complete the cases, are implied.

Recommendation is made that our authorized force be changed as follows:

NORTHEAST REGIONAL OFFICE
NEW YORK DISTRICT
INVESTIGATIONS BRANCH

Eliminate: 3 General Investigator GS-1810-9
(3 cancies), #603A68

Add: 3 General Investigator GS-1810-12
#673A18

Attachments

GG.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

A-527

000988

NATIONAL COUNCIL

U. S. IMMIGRATION AND NATURALIZATION SERVICE EMPLOYEES

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

P. O. Box 684, Church St. Station

New York, N. Y. 10008

DEC 23 2 32 PM '68

RECEIVED
IMMIGRATION SERVICE
PERSONNEL OFFICE

December 7,1968

President
Edward Kavazanjian - NYC

Executive Vice-President
Jesse R. Peterson - NYC

National Coordinator
James C. DeLisle

National General Counsel
Elmer Fried

Regional Vice-Presidents
Verlan Beauchamp - San Francisco
Edwin Chauvin - New Orleans
Gerald Cooper - Buffalo
Glenn Gibbons - Blaine

Secretary-Treasurer
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Ray Burrios - El Paso
Louis Calemine - NYC
Adeline Connelly - Boston
Lee Cremer - El Paso
William Devine - Buffalo
James Dorry - Chula Vista
Robert Gilbert - Chicago
Walter Hirzel - El Paso
James Josey - Newark
William Kallery - Hartford
Russ Manchester - Detroit
Vernon Ring - Brownsville
Thomas Pritchard - Miami
Ralph Raimond - NYC
Thomas Roland - NYC
Gerry Sewell - Washington, D. C.
Chester Sipkin - San Francisco

Mr. E.A. Loughran
Associate Commissioner, Management
Immigration & Naturalization Service
US Department of Justice
119 D. Street, N.E.
Washington, D.C.

Dear Mr. Loughran,

I take the liberty of bringing to your attention the recent audits conducted by the New York Regional Civil Service Evaluation Branch. These audits determined that six investigators of the General Investigations area of the New York INS investigations unit were adjudged to have been doing from 16% to 33% GS-12 level work for the past year. In the face of the extraordinary large caseloads they carry here, this can safely be designated as substantial amounts of GS-12 work.

We have also been informed by Mr. P.A. Esperdy that the investigations managers of the New York INS Office conclude that three GS-12 positions are needed in that area to perform what they consider to be GS-12 work originating there. The Union has not seen that survey but we accept it as the opinion of the General Investigation managers. Our own opinion from our surveys and substantiated GS-12 work in the area suggests that eight GS-12 positions are in immediate need. The one fact agreed on by all of us, CSC, INS and AFGE, is that GS-12 work is present and that positions should immediately be established to correct a long standing deficiency.

In 1967 after similar audits in California conducted by your managers you created twelve GS-12 positions to handle the existing or anticipated GS-12 work. Some of the selectees had been doing 10% and 15% GS-12 work before their selection and you saw fit to justify this to both this Union and to the Civil Service Commission. I have discussed this California method with Mr. Esperdy who is in agreement with the same principle of selection being applied now to the situation now presented to all of us here as a result of official CSC evaluations. We in the AFGE believe that the INS Chief in your office can do much to ameliorate the situation with a minimum of discord or disagreement between the deserving employees and management. We hope that you will examine the situation in this light and create six positions in that area and eliminate the problem of selection of candidates entirely. Those who have been doing the work in the Unit the past

HH

Again I impress upon you that although the District here has recommended only three positions they have accepted the fact of the GS-12 and the final evaluation that six of the appellants have been found to be doing substantial amounts of GS-12 work and more than some of the California selectees were found to have been doing. We pointed out to the District Director as we also point out to you, that this selection of six positions in the General Investigations area will allow the managers to hold many cases which are hurredly moved to other areas thereby overloading them. The INS achieves more balance to the office by preventing the overspecialization of the Special Investigation and Fraud Units, where heretofore all the GS-12 work has been funneled and buried for lack of GS-12 personnel. I am sure that you are interested in adjusting this unbalanced situation.

We shall appreciate your prompt consideration of this request and we are prepared to supply any information needed for your study.

Very truly yours,

Edw. Kavazanjian President

CO 612.1-C

February 18, 1969

Mr. Edward Kavanagh, President
AFGE, P. O. Box 636 Church Street Station
New York, New York 10008

FEB 18 1969

Dear Mr. Kavanagh:

Thank you for the comments and suggestions contained in your letter of December 7, 1968, which was received on December 20, 1968, concerning the establishment of grade GS-12 level General Investigator positions in the Central Unit.

After review of the factors involved and after consideration of the Civil Service Commission's findings, District Director Esperdy's recommendations, and your opinions, we can only conclude that no justification exists for the establishment of more than three journeyman grade GS-12 positions in the General Unit. You may be assured, however, that we will maintain a continuing review of the amount of grade GS-12 level work in the Unit which will determine the need for additional grade GS-12 positions.

With regard to the method of filling any newly created grade GS-12 positions in the General Unit, we have the following observations and comments. As a result of our review of each of the positions which were appealed, and as a result of the Commission's review, it has been shown that none of the appellants had been performing enough higher level work to warrant reclassification. The Civil Service Commission has held that in order to have been reclassified each of these appellants must have been spending the majority of his time on grade GS-12 level work. We may disagree with this principle, and perhaps with some justification, however, this has become the rule by which this Service is bound. Consequently, as we are by these decisions on appeal, the Service cannot contravene the Commission's binding certificates. As you know, the Service also raised certain questions concerning the propriety of this "majority of time" concept. The Bureau of Inspections of the Commission in Washington has responded, and we have attached a copy of their explanatory letter for your information.

As you know, a Commission decision on an appeal results in a certificate binding on the Service. Such is the case on these 14 positions in the General Unit. The Service, therefore, has no authority to reclassify any of those positions in the wake of the Commission's decisions. In addition to this restriction, since action to fill any

II

newly created grade GS-12 positions in the General Unit would not, and could not, be considered reclassification actions, we find no alternative to filling any such positions from the promotion list. We are not unaware of the problems which may result from this course of action. However, upon consideration of all facts and factors, we can find no justification for by-passing those persons who are within reach for promotion on the list.

The survey to which you allude was instituted in early 1957, and resulted as you know, from an entirely different situation. By way of background, the 1957 survey was a nationwide study made for the purpose of identifying all grade GS-12 level work being performed. The study was prompted by Civil Service Commission interpretation of the classification standards which was novel to this Service. Upon completion of our findings the Service determined the need for additional grade GS-12 positions in various locations throughout the country. The Civil Service Commission in Washington directed that these positions be filled by the reclassification [illegible]. It was our understanding that this method of filling the newly created positions had the concurrence of your National Headquarters. The instruction to fill positions by reclassification was understood by us to be limited only to positions created as a result of the nationwide survey. Actions taken in compliance with Commission directives as a result of that survey were completed during 1957. In our judgment those actions would have no bearing on the 14 classification appeals in the General Unit in New York which have now been certified by this Commission as being properly classified, or the filling of any positions which may be established elsewhere at some future date.

As a result of your inquiry, however, we are asking the Commission to review this situation and advise whether action similar to that taken in the 1957 survey may be in order in filling these positions, thus allowing the Service to use the so called reclassification route.

We will advise you as soon as we receive the Commission's response to our inquiry.

Sincerely,

E. A. Lovgren
Associate Commissioner, Management

Enclosures

cc: Mr. Greene
cc: Mr. Burrows
cc: Mr. Esperdy - DD - NY
cc: CO 675-C

EJF:nvc

CO 873-C

MAR 19 1969

Mr. Gilbert A. Schulkind, Director
Bureau of Inspections, U. S. Civil
Service Commission
Washington, D. C.

Dear Mr. Schulkind:

Reference is made to the attached classification appeal decisions rendered by your New York Regional Office. These decisions, which are incidentally concurred in by this Service, have presented a question of policy regarding subsequent upgradings by reclassification vis-a-vis upgrading by promotion.

By way of background, recently a group of General Investigators, grade GS-12, in our General Unit, New York District, appealed their grades. The New York Region of the Commission sustained the grades of each of the appellants and indicated in each decision letter the amount, if any, of grade GS-12 level work being performed by each officer. As it turned out, of the fourteen positions involved, six positions were found to involve from 15 to 25% higher grade work. As you know, in a work situation as exists in the Investigations Branch in New York, it has been held that a majority of time must have been spent on higher grade work before a position may be reclassified. Hence, none of the appellants were upgraded.

Since these decisions, and in part as a result of these decisions, our District Director has reviewed the work in the General Unit and has recommended the establishment of three grade GS-12 level positions which would in the future, be assigned all of the grade GS-12 level work in the Unit.

The obvious problem that arises is, how are these three newly established positions to be filled. That is, should the Service go to the present nationwide promotion list to fill these positions or should the officers in the General Unit who were found to be performing some higher level work be selected in lieu of using the promotion list. The employee organization involved and, of course, the appellants feel that those officers who have performed some higher level in the past have some equity in filling any newly established positions and therefore recommend the latter method of filling the positions. We, however, feel that adequate justification does not exist to use this method and, in effect, bypass those officers next up on the promotion list.

JJ

One of the arguments which is put forth by the employee organization and the appellants, is that in 1967, when the Service conducted a nationwide survey of General Investigator positions, a similar method in filling positions was employed at the direction of the Civil Service Commission. Specifically in your letter of February 15, 1967 and in our meeting with Mr. William E. Williams, Jr., of your office, we were directed to fill any positions established as a result of that survey by the reclassification route. That is, where it was determined that a position was to be established in one of our field offices, and where no officer was found to be performing higher grade work for a majority of his time, the position was filled by the officer found to be performing the highest percentage of grade GS-12 level work. This procedure in filling positions was used as directed in the 1967 survey at Los Angeles, San Francisco, Detroit and numerous other District Offices throughout the country.

We, therefore request your advisory opinion as to whether newly established positions such as the three proposed positions in New York may be filled by the same method as was directed by your office during the 1967 survey of General Investigator positions

Sincerely,

E. A. Loughran
Associate Commissioner, Management

BJF:lg

UNITED STATES CIVIL SERVICE COMMISSION
BUREAU OF [illegible]
WASHINGTON, D.C. 20415

APR 11 1969

Mr. E. A. Loughran
Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

Dear Mr. Loughran:

Reference is made to your letter of March 19, 1969, in which you request the Commission's advice on upgrading by reclassification vis-a-vis upgrading by promotion.

In the situation you describe in New York, you are clearly establishing three new positions. These positions are to be supported by the grade GS-12 level work now being performed by other Investigators GS-11. You indicate that none of these Investigators is performing a sufficient amount of GS-12 level work to meet the criteria for a GS-12 position in the New York organization. For this reason we would conclude that no incumbent has a valid claim to these duties and that the new positions could only properly be filled through the operation of your merit promotion plan.

Sincerely yours,

Gilbert A. Schultheis
Director

KK

A-534

D

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10007

ADDRESS:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
FEDERAL BUILDING, 26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

IN REPLY PLEASE REFER TO
NYE:SF:rp

YOUR REFERENCE

NOV 8 1968

Mr. Sol H. Saletra
1760 Andrews Avenue
Bronx, New York 10453

Dear Mr. Saletra:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Although your appeal was submitted as one of a group we have considered it individually and this letter is responsive to your particular situation.

Our decision is based on a review of the material submitted by you and your agency, consideration of the information secured during a work audit of your position, and a comparison of your duties and responsibilities against the Civil Service Commission's standards and the supplement to the standards of the Immigration and Naturalization Service for the General Investigating Series, GS-1810.

Essentially, the grade of an investigator's position depends on the level of difficulty of the cases assigned and their scope. The grade is not determined by the ability of an investigator to carry out more difficult assignments, or his length of service. We mention these points because they have been raised by some investigators during our discussions with them. We are commenting also on the complaint of some of the appellants with whom you are associated that the agency attempts to assign the more difficult and complex cases considered to be of GS-12 calibre (where it can be determined by supervisors) to GS-12 investigators and that when a case assigned to a GS-11 investigator appears to involve fraud or subversive activity or gives indication of developing into a GS-12 calibre case, it is taken away and assigned to a GS-12 investigator.

Your agency has the right, which goes with the responsibility for managing its resources in mission accomplishment, to assign work as it deems best. In this connection management's continuing objective should be to have each position contain as much of its grade controlling responsibilities as possible considering the work situation. GS-12 investigators, to the fullest extent, should be utilized on GS-12 work.

DEF EXH LL

The Civil Service Commission cannot dictate to your agency how it should organize its work or how it should make assignments to individual investigators. The Commission in its appellate capacity must limit its jurisdiction to determining the classification which results from the agency's decision on work organization and assignment. We determine the classification by assigning a grade to the principal duties and responsibilities; i.e., those that take up at least a majority of the employee's working time (at least 51 percent).

Our task in ruling on your appeal is to ascertain 1) the highest grade level of work assigned to you, and 2) the percentage of your working time which it occupies. This means that if you are performing GS-12 work your position will not be classified at that grade level unless it occupies a majority of your time. There are exceptions to this rule in certain situations such as you have pointed out in other district offices where it is not feasible to set up specialized positions at GS-12 to which available GS-12 work can be assigned. The exceptions do not negate the general rule stated above.

The criteria for classifying investigative assignments at the GS-12 level are described in the standards as follows: they are of the most complex and delicate nature; the issues involved have a grave impact on the national security; involve important political, social or similar implications, or persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case may be nationwide or particularly complex, or extremely important from the standpoint of potential effect on service-wide operations.

The fact that there may be congressional or central office interest in a particular case does not automatically place it in the GS-12 category. Neither is it placed in that category if the investigation includes interviews with members of a foreign mission or requires securing auxiliary information from an American consul overseas or a foreign consulate. The determining factor is still the character and complexity of the investigation and its broad implications.

Using your workload assignments for the last year we compared them against the above criteria. The majority of your cases during that period do not meet the GS-12 characteristics. Rather, they are more typical of the GS-11 or GS-9 grade levels. We refer particularly to marriage frauds involving one or a few individuals with no widespread conspiracy or third party ramifications; applications for naturalization or other benefits where neighborhood and other checks are made to verify references and other information where the applicants are neither key members of subversive organizations with influence and control over subversive activities in various key areas of the country, nor principals of well-organized underworld activities. Most orphan adoption cases are of the GS-9 level although some may have characteristics of higher grades; and locating aliens whose departure has not been verified is usually a GS-9 level assignment

unless the investigation presents some of the higher grade characteristics described above.

Among the cases which you have cited in support of your appeal we consider the following to have some GS-12 characteristics: Westchorsky, Goodarzian, Handicrafts and Handlooms Export Corporation of India, Exchange Visitors (nurses and doctors), Rubiano Family. These cases have not occupied a majority of your time during the last year. In our judgment, about 25 percent would represent the portion of your working time assigned to GS-12 casework.

We have considered also your other special assignments - personnel investigations, special inquiries from Congress, etc., liaison with local agencies. These do not affect materially the time which we estimate you have spent on GS-12 work.

We must conclude then that your duties and responsibilities do not meet the criteria in the standards for a GS-12 investigator and it is our decision that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

L. H. Baer
Regional Director

c.c. Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

Address
DIRECTOR NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
FEDERAL BUILDING 26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10007

IN REPLY PLEASE REFER TO

PHE:SF:nn

YOUR REFERENCE

NOV 8 1969

Mr. Norman H. Henry
43 Christine Lane
Tappan, N.Y. 19083

Dear Mr. Henry:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Although your appeal was submitted as one of a group we have considered it individually and this letter is responsive to your particular situation.

Our decision is based on a review of the information furnished by your agency and a comparison of your position against the Civil Service Commission's standards and the supplement to the standards of the Immigration and Naturalization Service for the General Investigating Series, GS-1810.

Essentially, the grade of an investigator's position depends on the level of difficulty of the cases assigned and their scope. The grade is not determined by the ability of an investigator to carry out more difficult assignments, or his length of service. We mention these points because they have been raised by some investigators during our discussions with them. We are commenting also on the complaint of some of the appellants with whom you are associated that the agency attempts to assign the more difficult and complex cases considered to be of GS-12 calibre (where it can be determined by supervisors) to GS-12 investigators and that when a case assigned to a GS-11 investigator appears to involve fraud or subversive activity or gives indication of developing into a GS-12 calibre case, it is taken away and assigned to a GS-12 investigator.

Your agency has the right, which goes with the responsibility for managing its resources in mission accomplishment, to assign work as it deems best. In this connection management's continuing objective should be to have each position contain as much of its grade controlling responsibilities as possible considering the work situation. GS-12 investigators, to the fullest extent, should be utilized on GS-12 work.

The Civil Service Commission cannot dictate to your agency how it should organize its work or how it should make assignments to individual investigators. The Commission in its appellate capacity must limit its jurisdiction to determining the classification which results from the agency's decision on work organization and assignment. We determine the classification by assigning a grade to the principal duties and responsibilities; i.e., those that take up at least a majority of the employee's working time (at least 51 percent).

The criteria for classifying investigative assignments at the GS-12 level are described in the standards as follows: they are of the most complex and delicate nature; the issues involved have a grave impact on the national security; involve important political, social or similar implications; or persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case may be nationwide or particularly complex, or extremely important from the standpoint of potential effect on service-wide operations.

The fact that there may be congressional or central office interest in a particular case does not automatically place it in the GS-12 category. Neither is it placed in that category if the investigation includes interviews with members of a foreign mission or requires securing auxiliary information from an American consul overseas or a foreign consulate. The determining factor is still the character and complexity of the investigation and its broad implications.

You presented no cases to demonstrate that your assignments were characteristic of GS-12 investigative work. Your agency has informed us that the preponderant majority of your time has been spent on cases involving naturalization neighborhood character investigations and those involving status of non-immigrants. These do not meet the GS-12 criteria.

It is our decision that your position is properly classified as General Investigator, GS-1810-11.

Sincerely yours,

L. H. Paer
REGIONAL DIRECTOR

cc: Associate Commissioner, Management
U.S. Department of Justice
Immigration and Naturalization Service
Washington, D.C. 20536

A-539

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10007

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U.S. CIVIL SERVICE COMMISSION
FEDERAL BUILDING 26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

IN REPLY PLEASE REFER TO
PME:SF:rp

YOUR REF. NOV 8 1968

Mr. John G. McKenzie
9602 4th Avenue, Apt. 1-C
Brooklyn, New York 11209

Dear Mr. McKenzie:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Although your appeal was submitted as one of a group we have considered it individually and this letter is responsive to your particular situation.

Our decision is based on a review of the information furnished by your agency and that secured during a work audit of your position, and a comparison of your duties and responsibilities against the Civil Service Commission's standards and the supplement to the standards of the Immigration and Naturalization Service for the General Investigating Series, GS-1810.

Essentially, the grade of an investigator's position depends on the level of difficulty of the cases assigned and their scope. The grade is not determined by the ability of an investigator to carry out more difficult assignments, or his length of service. We mention these points because they have been raised by some investigators during our discussions with them. We are commenting also on the complaint of some of the appellants with whom you are associated that the agency attempts to assign the more difficult and complex cases considered to be of GS-12 calibre (where it can be determined by supervisors) to GS-12 investigators and that when a case assigned to a GS-11 investigator appears to involve fraud or subversive activity or gives indication of developing into a GS-12 calibre case, it is taken away and assigned to a GS-12 investigator.

Your agency has the right, which goes with the responsibility for managing its resources in mission accomplishment, to assign work as it deems best. In this connection management's continuing objective should be to have each position contain as much of its grade controlling responsibilities as possible considering the work situation. GS-12 investigators, to the fullest

IN REPLY PLEASE REFER TO
PME:SF:rp
YOUR REF. NOV 8 1968

extent, should be utilized on GS-12 work.

The Civil Service Commission cannot dictate to your agency how it should organize its work or how it should make assignments to individual investigators. The Commission in its appellate capacity must limit its jurisdiction to determining the classification which results from the agency's decision on work organization and assignment. We determine the classification by assigning a grade to the principal duties and responsibilities; i.e., those that take up at least a majority of the employee's working time (at least 51 percent).

Our task in ruling on your appeal is to ascertain 1) the highest grade level of work assigned to you, and 2) the percentage of your working time which it occupies. This means that if you are performing GS-12 work your position will not be classified at that grade level unless it occupies a majority of your time. There are exceptions to this rule in certain situations such as you have pointed out in other district offices where it is not feasible to set up specialized positions at GS-12 to which available GS-12 work can be assigned. The exceptions do not negate the general rule stated above.

The criteria for classifying investigative assignments at the GS-12 level are described in the standards as follows: they are of the most complex and delicate nature; the issues involved have a grave impact on the national security; involve important political, social or similar implications; or persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case may be nationwide or particularly complex, or extremely important from the standpoint of potential effect on service-wide operations.

The fact that there may be congressional or central office interest in a particular case does not automatically place it in the GS-12 category. Neither is it placed in that category if the investigation includes interviews with members of a foreign mission or requires securing auxiliary information from an American consul overseas or a foreign consulate. The determining factor is still the character and complexity of the investigations and its broad implications.

During the work audit of your position, you presented no cases that have the characteristics of the GS-12 grade level. It is therefore our decision that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

L. H. Facer
REGIONAL DIRECTOR

cc: Associate Commissioner,
Management, U.S. Department of Justice
Immigration and Naturalization Service
Washington, D.C. 20536

A-541

UNITED STATES CIVIL SERVICE COMMISSION

NEW YORK REGION

COMPRISING THE STATES OF NEW YORK AND NEW JERSEY

OFFICE OF THE DIRECTOR, NEW YORK, N.Y. 10007

Address:
DIRECTOR, NEW YORK REGION
U.S. CIVIL SERVICE COMMISSION
FEDERAL BUILDING, 26 FEDERAL PLAZA
NEW YORK, N.Y. 10007

IN REPLY PLEASE REFER TO
PVE:EF:rp

YOUR REFERENCE

Mr. Arthur Opolion
137-44 Francis Lewis Boulevard
Laurelton, New York 11413

Dear Mr. Opolion:

This is our letter of decision on your appeal of the classification of your position as General Investigator GS-1810-11 in the New York District Office of the Immigration and Naturalization Service. Although your appeal was submitted as one of a group we have considered it individually and this letter is responsive to your particular situation.

Our decision is based on a review of the material submitted by you and your agency, consideration of the information secured during a work audit of your position, and a comparison of your duties and responsibilities against the Civil Service Commission's standards and the supplement to the standards of the Immigration and Naturalization Service for the General Investigating Series, GS-1810.

Essentially, the grade of an investigator's position depends on the level of difficulty of the cases assigned and their scope. The grade is not determined by the ability of an investigator to carry out more difficult assignments, or his length of service. We mention these points because they have been raised by some investigators during our discussions with them. We are commenting also on the complaint of some of the appellants with whom you are associated that the agency attempts to assign the more difficult and complex cases considered to be of GS-12 calibre (where it can be determined by supervisors) to GS-12 investigators and that when a case assigned to a GS-11 investigator appears to involve fraud or subversive activity or gives indication of developing into a GS-12 calibre case, it is taken away and assigned to a GS-12 investigator.

Your agency has the right, which goes with the responsibility for managing its resources in mission accomplishment, to assign work as it deems best. In this connection management's continuing objective should be to have each position contain as much of its grade controlling responsibilities as possible considering the work situation. GS-12 investigators, to the fullest extent, should be utilized on GS-12 work.

The Civil Service Commission cannot dictate to your agency how it should organize its work or how it should make assignments to individual investigators. The Commission in its appellate capacity must limit its jurisdiction to determining the classification which results from the agency's decision on work organization and assignment. We determine the classification by assigning a grade to the principal duties and responsibilities; i.e., those that take up at least a majority of the employee's working time (at least 51 percent).

Our task in ruling on your appeal is to ascertain 1) the highest grade level of work assigned to you, and 2) the percentage of your working time which it occupies. This means that if you are performing GS-12 work your position will not be classified at that grade level unless it occupies a majority of your time. There are exceptions to this rule in certain situations such as you have pointed out in other district offices where it is not feasible to set up specialized positions at GS-12 to which available GS-12 work can be assigned. The exceptions do not negate the general rule stated above.

The criteria for classifying investigative assignments at the GS-12 level are described in the standards as follows: they are of the most complex and delicate nature; the issues involved have a grave impact on the national security; involve important political, social or similar implications; or persons whose conviction would be of material benefit to the national economy, social welfare, or security. The nature of the case may be nationwide or particularly complex, or extremely important from the standpoint of potential effect on service-wide operations.

The fact that there may be congressional or central office interest in a particular case does not automatically place it in the GS-12 category. Neither is it placed in that category if the investigation includes interviews with members of a foreign mission or requires securing auxiliary information from an American consul overseas or a foreign consulate. The determining factor is still the character and complexity of the investigation and its broad implications.

Among the cases which you have cited in support of your appeal we consider the following to have some GS-12 characteristics: [illegible] Complaint, Metz, School Investigations, Yifrach. These, however, take up a minor portion of your investigative work time (no more than 15 percent). We have considered also your assignment as supervisor over GS-9 investigators, and your designation as a control officer when an alien in transit without visa absconds. Neither activity is enough to justify a GS-12 grade.

We must conclude then that your duties and responsibilities do not meet the criteria in the standards for a GS-12 investigator and it is our decision that your position is properly classified as General Investigator GS-1810-11.

Sincerely yours,

L. H. Baer
Regional Director

c.c. Associate Commissioner, Management
U. S. Department of Justice
Immigration and Naturalization Service
Washington, D. C. 20536

A-544 * Reconsideration

Assigned To Audited		Correct Classification	Date Closed	Remarks
[illegible]		Clerk-Stenographer GS-312-3	6/10/66	(13)
SF		Engineering Technician (General) GS-802-10	7/20/66	Ref #85 (7)
WJH		Budget Analyst GS-560-8	7/26/66	Upgrading (2) To: CAC: 8/9/66 From: AO File Return 9/23/66
[illegible]		Supervisory Accounting Technician GS-525-8	7/6/66	(1)
[illegible]	8/17/66	Purchasing Agent GS-2020-5	8/30/66	Series Change (3)
WJH		Supervisory General Supply Specialist GS-2001-10	7/18/66	(1)
SW		Payroll Clerk GS-544-5	9/13/66	(3)
		Supervisory Purchasing Agent GS-2020-8	9/8/66	Upgrading (3)
J.S.		Supervisory Planning Engineer GS-801-12	8/30/66	Per [illegible] PK (3) To CAO: 10/25/66 From CAO: 11/3/66 - Concur
SW	10/17/66	Illustrator GS-1020-8	11/4/66	Upgrading (5) To CAO: 5/23/68 From CAO: 5/28/68
		Mail & File Clerk GS-305-3	8/12/66	(2)

(M)

No.	Name	Agency and Location	Present Classification	Date Rec.	Date
66	Jack T. Lazarus & (4) others	Immigration & Naturalization Service 20 West Broadway New York N.Y. 10007	Investigator GS-11	5/2/66	5/11/66
67	Leonard Kobrick	Office of Economic Opportunity 40 East 41st Street New York N.Y. 10017	Recreation Specialist (General) GS-188-12	5/10/66	5/11/66
68	Frederick W. Pflugbeil, Jr.	Finance & Accounting Off. U.S. Military Academy West Point N.Y. 10996	Accounting Technician GS-525-7	5/12/66	5/13/66
69	Andrew G. Ring	Naval Air Test Facility Naval Air Station Lakehurst N.J.	Electronic Technician GS-856-8	5/19/66	5/23/66
70	Joseph De Martino	U.S. Naval Air Station New York Brklyn N.Y.	Supply Clerk GS-2040-5	5/19/66	5/23/66
71	Hugh J. Cook & (17) others	Nationide Aviation Facilities Experimental Center Atlantic City, N.J.	Guard GS-085-3	5/20/66	5/24/66
72	Alice L. Lockett	U.S. Army Garrison Headquarters Ft. Totten Flushing L.I. N.Y. Fiscal & Contr. Office	Supervisory Purchasing Agent GS-2020-7	6/3/66	6/6/66
73	Henry G. Mazlen	Veterans Administration Hospital Brooklyn, N.Y.	Management Analyses Officer GS-343-(12)	6/8/66	6/9/66
74	Charles W. Ward	Naval Air Test Facility (S1) Lakehurst NASL Lakehurst New Jersey	Supv Electronic Technician GS-856-9	6/13/66	6/14/66
75	Dr. Robert E. Blake, POD	Veterans Administration Hospital Canandaigua, N.Y.	Podiatrist GS-668-9	6/13/66	6/14/66
76	Mrs Marion B. Holohan	Mc Guire Air Force Base Trenton, N.J. 07041	Secretary GS-318-6	6/14/66	6/14/66

		Correct Classification	Date Closed	Remarks	
P	SF	General Investigator Grades GS-11 & GS-12	7/1/66	Listed as 48 appeals - Includes Kawazanjian (81) & 2 grps Alma Warner v. CAC: 6/9/67	(8)
SF		Recreation Specialist (General) GS-188-12	9/23/66		(3)
		Cancelled	11/30/66		(6)
		Cancelled	7/5/66		(1)
SW	8/17/66	Supply Clerk GS-2040-5	8/24/66		(2)
SF		Guard GS-085-3	10/3/66		(4)
	SW	Supervisory Purchasing Agent GS-2020-7	12/20/66		(7)
SW	10/5/66	Management Technician GS-341-9	11/2/66	Downgrading 3 grades 2: BAR: 11/4/66 - Rpt. 11/30/66 2: BAR: 12/2/66 - Rpt. 12/30/66	(5)
SW		Supv. Electronics Techn. GS-856-9	11/16/66		(5) 11/16/66
	SF	Podiatrist GS-668-9	12/24/66		(5)
	SW	Secretary (Stenography) GS-318-6	12/13/66		(6)

Page 87

No.	Name	Agency and Location	Present Classification	Rec.	Act.
77	David B. Holm Jr.	National Aeronautics Facilities Experimental Center	Air Traffic Control Specialist (General) GS-2152-12	6/15/66	6/17/66
78	Doris F. Leone	Immn + Nat. Service 20 West Broadway New York, N.Y.	Supervisory Contact Representative GS-962-10	6/24/66	6/27/66
79	(15) Trial Attorneys	Immn + Nat. Service Dept. of Justice Various locations	Trial Attorneys GS-12	6/28/66	6/28/66
80	Richard L. O'Dell	U.S Military Academy West Point, N.Y.	Program Analyst GS-345-9	7/1/66	7/6/66
81	Edward Kavazanjian & (11) others	U.S. Immn + Nat. Service 20 West Broadway New York, N.Y. 10008	General Investigator GS-1810-11	7/6/66	7/17/66
82	Paul Mahler				
83	Vera C. Craft	Office of Defense Contract Administration Services Office Chimes Building Syracuse N.Y.	Contract Administrator GS-9	7/14/66	7/15/66
84	Joseph Frazzetta	Quality Control Div Quality Assurance Dept Ft. Neck, L.I. N.Y.	Engineering Technician (General) GS-802-10		
85	Charles O. Finley	Hdqtrs 380th Strategic Aerospace Wing (SAC) Plattsburgh Air Force Base, N.Y. 12903	Construction Inspector (General) GS-809-7	7/18/66	7/19/66
86	(10) Deportation Officers	N.Y. District Immn + Nat Service 20 West Broadway New York N.Y.	Deportation Officer GS-942-9	7/25/66	7/26/66
87	Ethel Horwitz	Inspection Division Defense Materials Service General Services Adm 30 Church Street	Clerk-Stenographer GS-312-3	7/25/66	7/26/66

Auc		Correct Classification	Date Closed	Remarks	
	SF	Air Traffic Control Specialist (Research & Development) GS-2152-12	10/14/66	Title Change	(4)
/	SF	Supervisory Contact Representative GS-962-10	10/27/66		(5)
		Cancelled	5/10/67	Executed on Proclamation 5/6/67	
	SF	Cancelled	10/6/66		(4)
yes	SF	General Investigator GS-11 + GS-12	2/1/67	Listed as 48 single appeals including 3 Fazdins + group	(8)
		Cancelled	9/6/66		(3)
—	SW	Contract Administrator GS-1102-9	1/27/67		(8)
	SF	Engineering Technician (General) GS-802-10	7/20/66	File to D.C. 7/26/66 see #29	(1)
—	CHM	Construction Inspector (GEN) GS-809-7	1/27/67		(8)
4/67	SF	Deportation Officer GS-301-11	7/21/67	Upgrading	(1)
		Cancelled	10/6/66		(4)

No.	Name	Agency and Location	Present Classification	Req.	Ack.
86	Leroy Clinton	(9) North Atlantic Region Internal Revenue Service 90 Church Street New York N.Y. 10007	Supply Clerk GS-2040-4	7/27/66	7/29/66
87	Leona Kappert	(10) Naval Supply Center Bayonne, N.J. 07002	Property Disposal Officer GS-1104-10	8/2/66	8/3/66
90	Richard H. Dill	(11) U.S. Military Academy West Point, New York 10996	Engineer Tech GS-802-9	9/9/66	9/10/66
91	George Reim	(12) VA R.O. Newark, N.J. 07102	Supervisory Social Worker GS-185-13	8/26/66	8/31/66
92	Romona Brown	(13) V.A. Hospital Montrose, N.Y. 10548	Clerk-Typ + Dict. Machine Transcribe Unit Supv. GS-313-5	8/5/66	8/11/66
93	Joseph Shea	(14) V.A. Hospital Montrose, N.Y. 10548	Supply Clerk GS-2040-3	8/23/66	8/24/66
94	Arthur R. Foglia	(15) U.S. Army Engineer District, NY Corps of Engineers 111 East 16th Street New York N.Y. 10003	Civil Engineering Technician GS-802-10	9/1/66	9/2/66
95	Charles T. McCann	(16) Veterans Administration Hospital Northport, L.I. N.Y.	Accounts Maintenance Clerk GS-530-4	9/11/66	9/2/66
96	Charles F. Joyce	(17) V.A. Hospital Irving Ave + Univ. Place Syracuse N.Y. 13210	Supv. Purchasing Agent GS-2020-8	9/9/66	9/12/66
97	Mrs Barbara Walker + (1) other	(18) VA Outpatient Clinic 252 Seventh Ave New York NY 10001	Claims Clerk Entitlement Determine GS-6-998	9/2/66	9/9/66
98	Stanley B. Barhack	(19) U.S. Military Academy West Point N.Y. 10996	Management Technician GS-344	9/2/66	9/2/66

	signed	Correct Classification	Date Closed	Remarks	
12/57 6/21/68	SW	Library Technician GS-1411-5	6/12/68	Change in title	(13)
/	JS	Supervisory Clerical Assistant GS-301-5	6/28/68		(13)
5/21/68	JS	Electronics Technician GS-856-12	6/27/68	~~Upgrading~~	(13)
9/16 - 7/68	SF	General Investigator GS-1810-9	10/7/68	6-adj 3-Cancelled	(4)
	SBK	File Clerk GS-305-4	7/26/68		(1)
	WJH	Reporting Stenographer GS-312-5	8/21/68	To CAO: 9/24/69 From CAO: 11/21/69 Error	(2)
—	JS	Engineering Technician GS-802-7	7/1/68		(1)
8/5/68	SF	Patent Attorney GS-1222-13	8/30/68		(3)
	WJH	Industrial Property Officer GS-1103-10	8/23/68	Upgrading	(2)
	WJH	Industrial Property Officer GS-1103-10	8/23/68	Upgrading	
	JS	Electronic Technician GS-856-9	8/25/68		(1)

No.	Name	Agency and Location	Present Classification	Ra	K
129	Henry Link	Def Cont Adm Serv Reg N.Y. 60 Hudson St New York N.Y.	Supv Quality Control Representative GS-1903-12	6/17/68	6/9/68
130	A Swenson + (1) Other	Hdqtrs Fort Monmouth Fort Monmouth, N.J.	Illustrator GS-1020-8		
130	Martin R Greenfield + (15) 14 others	Imm + Nat Serv 70 West Bway New York, N.Y.	Investigator	6/19/68	6/28/68
131	Carolyn G. Baucom	V.A. Hospital Northport, N.Y. 11768	Physical Therapist GS-633-8	6/17/68	6/9/68
132	Jenn Trombley	GA Eastern Region JFK Airport Jamaica N.Y.	Teletypist GS-~~385-5~~ 392-5	6/17/68	6/9/68
133	Albert J. Manik	Def Cont Adm Serv Region, N.Y. 770 Bway New York N.Y.	Industrial Specialist GS-1150-9		
134	Anne T. Hannon	Vets Adm. Hosp Northport, N.Y. 11768	Physical Therapist GS-633-8	6/19/68	6/9/68
135	Mrs R. M. Weintraub	Acct & Finance Office Stewart Air Force Base N.Y.	Deputy Accounting & Finance Officer GS-510-11	6/19/68	6/19/68
136	James H. Genovese	DCASR, N.Y. 60 Hudson St. N.Y. N.Y.	Supervisory Industrial Property Officer GS-1103-11	6/12/68	6/25/68
137	Benjamin B Edelstein	INS- 70 West Bway New York N.Y.	Supervisory Deportation Officer GS-301-12	6/24/68	6/24/68
	Lawrence Mealia + (4)	Def Contract Adm Serv Region, N.Y. 60 Hudson St (Springfield, N.J.)	Industrial Property Officer GS-1103-10	6/12/68	6/25/68

A	Assigned to	Correct Classification	Date Closed	Remarks
	SF	Supv. Quality Control Representative GS-1903-13	10/11/68	(4)
11/66	SW	Illustrator GS-1020-8	6/12/68	(3)
10/11/68	SF	General Investigator GS-1810-11	11/8/68	Murray - Cancelled 9/2/68 Fischel - Cancelled To Off of General Counsel 5-9/10/69
8/12/68	SF	Physical Therapist GS-633-8	9/11/68	
		Cancelled - Appellant resigned 9/13/68	9/19/68	
	SF	Cancelled - Agency re-organizing Division	6/19/68	(13)
9/12/68	SF	Physical Therapist GS-633-8	9/11/68	
8/9/68	WJH	Accounting Officer GS-510-12	8/27/68	Upgrading To CAO 12/13/68 From CAO - 2/24/69 - Concur (2)
		Cancelled at Appellants' request	7/3/68	(1)
8/30/68	SF	Supervisory Deportation Officer GS-301-12	9/11/68	To CAO: 10/14/68 From CAO: 1/27/69 Concur
		Cancelled at Appellants' request	7/3/68	

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No.	Name	Agency and Location	Present Classification	A.	
131	Gilbert Reed + (1) other	Off. Coast Adm Serv Rdg N.Y. 66 Hudson (Springfield, N.J.)	Industrial Property Officer GS-1103-9	6/18/68	6/ /68
140	Stewart C. Brown	V.A. Hospital Castle Point, N.Y.	Chief, Recreation Therapy GS-188-9	6/28/68	7/2/68
1	John F. Perry	Stewart Air Force Base, N.J. 12550	Management Analyses Officer GS-343-12	7/9/68	7/9/68
2	Victor H. Moore	Investigations Section - Newark District Office Imm & Nat. Serv.	Investigator GS-1810-9	7/14/68	7/15/68
3	(12) Ship Surveyor (General)	Military Sea Transp Service 58th Street & First Ave Bklyn, N.Y.	Ship Surveyor (General)		
4	Grace M Grant	History Section McGuire Air Force Base, N.J. 08641	Historian GS-170-7	7/17/68	7/18/68
5	Paul L. Perkins	Fed Aviation Adm Airway Facility Section #148 Newark, N.J.	General Supply Asst GS-2001-5	7/22/68	7/23/68
6	Louella J. Donelson	General Services Adm 26 Federal Plaza N.Y. N.Y. 10007	Cost Analyst GS-301-9	7/22/68	7/23/68
7	Thomas L. Repetti	Naval Plant Rep Office Grumman Aerolyt Corp. Corp. Bethpage N.Y.	Property Disposal Officer GS-1104-11		
8	Helen L. Zambanini	New York Dist Office Imm & Nat Service 20 West Broadway New York N.Y.	Secretary GS-5	7/22/68	
9	Anna C. Hollenbaugh	Hqtrs 2856 Air Base Group (AFLC) Griffiss Air Force Base	Supply Clerk GS-2040-4	8/2/68	8/19/68

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EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

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OCT 5 1964

Honorable Nicholas de B. Katzenbach
Acting Attorney General
Department of Justice
Washington, D. C. 20530

Dear Mr. Katzenbach:

Enclosed are three copies of our report on the Nationwide Inspection of the program for personnel management in the Naturalization Service.

We found that the Service is an exceptionally close-knit organization with a strong career-service concept and excellent communications. Morale is high and both employees and management show a high sense of loyalty.

However, we have dealt with a number of problems in the report. We would like to call to your attention two which we consider to be more serious in nature:

The composition of the work force is heavily influenced by the practice of using the position of Naturalization Examiner as the prime means of entry into the Service. This [illegible] enforces the requirement that all newly appointed [illegible] Control Inspectors serve two years in the Naturalization Service. This excludes a class of highly [illegible] citizens from consideration for employment in the Service. Other [illegible] cause of sex and physical requirements for the position of Immigration Control Inspector. [illegible] the height and weight requirements, and many [illegible] cannot meet other more stringent physical [illegible] We also believe that the requirement that persons must be willing to serve for their first two years in the Eastern Area [illegible] acts as a significant deterrent to the employment of [illegible] who may be reluctant to accept employment under such conditions.

We strongly recommend that the Service [illegible] tion to check in, its Border Patrol into the Service for positions other than those in the border patrol that would provide more opportunity for members of minority groups, women, handicapped persons, and others for selection and development on a merit basis to positions for which they are fully qualified.

Close secrecy and tight control over the promotion program, intended to lessen the chance of partisan political influence, have created a widespread feeling among employees and supervisors in the field that political endorsement will further promotion prospects. As a result, employees actively seek political recommendations although we found no evidence that such recommendations have affected promotion decisions. The practice has thus created exactly the opposite effect from that intended.

The Service must take action to train supervisors in their responsibilities in personnel management, generally. This lack of training is felt particularly in the implementation of the classification program. The effects of this lack of training have shown up particularly in the classification of investigator positions. The result has been to lower morale and to cast doubts in the minds of employees on management's equity in dealing with them.

The report contains a more complete discussion of our findings and suggestions for improvements, where needed, in each of the program areas.

I will appreciate hearing from you within 30 days from the date of this report of the action that you have taken or plan to take on the proposals and suggestions we have offered for improvement.

Please express my thanks to the Commissioner and to all members of his staff for the excellent cooperation and assistance given to our inspectors during their visits both here at headquarters and in the field establishments.

Sincerely yours,

John W. Macy, Jr.
Chairman

Enclosures

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USCSC INSPECTION PROGRAM

EVALUATION of PERSONNEL MANAGEMENT

IMMIGRATION AND NATURALIZATION SERVICE
DEPARTMENT OF JUSTICE

Nationwide

July 1964

U. S. CIVIL SERVICE COMMISSION

Bureau of Inspections
Washington, D. C.